



Clatsop County

Community Development – Planning

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STAFF COVER MEMO

APPEAL #186-23-000415-PLNG Before the Clatsop County Hearings Officer
Appeal of Decision to Deny a Conditional Use Application for a
Template Test Dwelling Application #186-23-000089-PLNG

STAFF COVER MEMO DATE: September 15, 2023

NOTICE OF DECISION DATE: July 18, 2023

REQUEST: Appeal of a Notice of Decision, issued July 19, 2023, denying Conditional Use Application 186-23-00089-PLNG for a template test dwelling, pursuant to LAWDUC 4.3440(14) and 3.9180

APPELLANT/PROPERTY OWNER: Jason Palmberg
P.O. Box 173, Astoria, Oregon 97103

APPELLANT'S REPRESENTATIVE: Dean N. Alterman, Attorney
805 SW Broadway, Ste. 1500, Portland, OR 97205

APPELLANT'S CONSUTLANT: Will Caplinger, AICP, Two Branches Consulting
caplingerwill@gmail.com

PROPERTY DESCRIPTION: T7N, R09W, Sec. 18, Tax Lot 1400 (109.14 acres +/-),
Zoning Designation: AF: Agriculture-Forestry, approximately 71 acres (80-acre minimum lot size)
Comprehensive Plan Designation: AC-2: Aquatic Conservation Two, 38+ acres (no minimum lot size)
Overlays and Layers: Conservation Forest Lands (AF)
Conservation Other Resources (AC-2)
Flood Hazard Overlay (FHO), Zone AE
Geologic Hazards Overlay (GHO), compressible soils
Shoreland Overlay (SO)
Statewide Wetlands Inventory (SWI; regulated by Oregon Department of State Lands)

COUNTY STAFF REVIEWERS: Julia Decker, Planning Manager
Jason Pollack, Planner

STAFF RECOMMENDATION: Uphold Community Development Director's decision to deny the conditional use template test application #186-23-000089, based on the findings and conclusions outlined in the Notice of Decision issued July 19, 2023

EXHIBITS:

- A. Appeal application materials
- B. Notice of Decision for CUP #186-23-000089
- C. Documentation pursuant to LAWDUC Section 2.2000. Public Deliberations and Hearings
- D. ESRI LDM formula page from company website

I. SUMMARY

On March 7, 2023, property owner Jason Palmberg submitted an application to Clatsop County Community Development for a conditional use permit for a “template test” dwelling on a unit of land, known as T7N, R9W, Section 18, Tax Lot 01400 (TL 01400). TL 01400 is approximately 109 acres in size, about 71 acres of which is zoned AF, Agriculture-Forestry, which has an 80-acre minimum lot size. The balance of the parcel is zoned AC-2, Aquatic Conservation Two, with no minimum lot size. A lot of record determination in 1998, application #98-686, found TL 01400 to be a “lot of record” (Section 1.0500, Land and Water Development and Use Code [LAWDUC]) and a single parcel for land use purposes.

Under LAWDUC Section 3.9190 3), a single family template dwelling authorized under ORS 215.750 can be located based on USDA soil types. Section 3.9190 3)(C) of Clatsop County’s template test application requires review of the USDA soils maps for the site and a determination of the predominant soil type; placement of a 160-acre template, centered over the subject property; and a count of the number of tax lots and dwellings in existence on January 1, 1993 within the template. The more productive the soils, the greater the number of tax lots required within the 160-acre template, ranging from all or part of at least three tax lots to all or part of at least 11 tax lots. In addition, regardless of soil productivity, at least three dwellings shall have existed on January 1, 1993, and shall continue to exist on other lots or parcels within the template in order to qualify for the template test. In fact, Clatsop County’s LAWDUC 3.9190 3)(A-C) and (F-G) are nearly verbatim the text of ORS 215.750 (2) (a-c) and (7)(a-b). As documented in the original staff report under Section 3.9190(3)(H), staff found soils that require all or part of 11 tax lots and three dwellings which existed on January 1, 1993, and which continue to exist today, to be necessary to approve the template test. This was based on the two predominate soil types, Humitropepts and Grindbrook-Walluski, being almost evenly distributed over the AF-zoned portion of the subject parcel.

Per LAWDUC 3.9190 (F) and (G), where a tract of land is larger than 60 acres and abuts a road or perennial stream, the 160-acre template may be modified from a square to a rectangle one mile long and one-quarter of a mile wide and centered on the subject tract to the maximum extent possible, aligned with the road. Per (G) specifically, the measurement shall be made in accordance with (F); however, one of the three dwellings:

- Shall be on the same side of the road or stream as the tract; and
 - Be within the 160-acre rectangle centered on the tract and aligned with the road or stream to the greatest extent possible; or
 - Be within one-quarter mile of the edge of the subject tract but not outside the length of the 160-acre rectangle and on the same side of the road or stream as the subject tract.

Typically, especially with larger tracts that have state or County road frontages or perennial streams, the rectangular template is more apt to produce the necessary number of the lots and dwellings. A 109-acre parcel takes a large portion of a 160-acre square template. However, staff reviewed both the square and rectangular templates to determine whether the square produced the 11 tax lots and three parcels necessary for a dwelling on TL 01400. As a matter of policy, where the County has a choice of which template to apply, staff selects the one that is most beneficial to the property owner.

The square template was of no use, and the rectangular template was considered to provide the only possibility of meeting the standard. However, only eight tax lots and one dwelling were found within the template area, meaning the template test was deemed to have failed and was, therefore, denied.

Mr. Palmberg has appealed the director’s decision, based on the orientation of the template used by the County and an argument that the dwellings within one-quarter of a mile of the property and on the same side of the river should be counted, regardless of how the template is oriented.

The template supplied by Mr. Palmberg in his application, which is found in the original application materials and attached as Exhibit 1 to the Notice of Decision, Exhibit A to this report, proposed to align the template in a west-southwest to east-northeast manner. Although the applicant’s template produced the 11 tax lots and three dwellings required, staff found the template did not align to the greatest degree possible

with the Lewis & Clark River. Using the County's GIS system found in Webmaps and available publicly online, staff attempted to gage the general direction of the river's flow in a manner similar to the way the Beck template test had been calculated in 2022 in a different application for a different client of Mr. Palmberg's consultant. In fact, it is the Beck template test to which Mr. Palmberg's attorney, Mr. Alterman, refers in his appeal materials. (The Beck template test used a County road because no stream or river traversed or abutted the parcel.)

At the time of the Beck partition, staff found the public Webmaps tools imprecise and prone to subjectivity, but made use of them nonetheless, making findings to support the consultant's attempt to align the Beck template. Using the one-mile-long template concept, staff calculated one-half mile in each direction, using the road frontage as the center point for weighting the alignment of the orientation of, but not the center of, the template. Findings for the Beck template test can be found on page 10 of the staff report for that application, which is an exhibit in the appellant's materials, Exhibit A. It was the Beck template that demonstrated to staff the necessity for an objective method to determine template alignment.

Were staff to calculate the Beck template today using the current procedure, this would be the result, compared to the template produced at the time of the Beck application:

2022 alignment - Beck



Clatsop County Webmaps, 2022

Alignment using current procedure - Beck



Clatsop County GIS staff, 2023

Since the Beck template test was approved in 2022, Clatsop County has begun using the mathematical centroid to determine the center of a subject tract, per Ordinance 23-02, which codified HB 2225 into County code. The centroid requirement can be viewed as the legislature's intent to make template test dwelling calculations as objective as possible to reduce potential for subjective results and human error. The mathematical centroid serves as the pivot point for the alignment. Community Development staff, noting the direction and intent of the legislation, approached the County's GIS staff about a way to refine the template alignment procedure so that it was consistent with the trend seen with the mathematical centroid legislation and to reduce concerns about subjectivity.

To alleviate that subjectivity, GIS staff recommended using an ESRI tool that determines the Linear Directional Mean (LDM). LDM is a vector-based analysis which takes a collection of lines, such as the centerline of a road or stream, and calculates the average of the direction and length. The statistic used to calculate the trend is known as the directional mean. While the statistic itself is termed the directional mean, it is used to measure either direction or orientation. The tool identifies the mean direction, length, and geographic center for a set of lines. The tool is used for a variety of applications, according to ESRI, from wildlife migration patterns to weather and storm patterns.

For TL 01400, when determining how to align the template to the maximum extent possible with the Lewis & Clark River, County GIS staff used the LDM to create a line, starting at the center of the tax lot's frontage of the Lewis & Clark River, then measuring one-half mile in each direction, consistent with the one-mile length of the prescribed template, then weighting the directions of the line in that one mile. This is done using a mathematical formula devised by ESRI, a global market developer of geographic information system software that builds Arc GIS, an internationally used mapping and spatial analytics software. This is

an improvement from previously used methods of determining the best alignment of a rectangular template that approximated the average orientation of a road or stream using the nonprofessional tools provided for laypersons in the public Webmaps online. Instead, County planning staff are accessing the professional expertise of the County's GIS staff trained in the use of industry-accepted software to objectively determine the average orientation of a specific segment of a road or stream. Planning staff is not creating the LDM themselves.

The LDM tool measures the orientation and direction of an infinite number of line segments to mathematically calculate the mean orientation and direction. County GIS staff has generated a script to ensure consistent results with the tool. According to County GIS staff, the LDM tool is the most reliable method available to the County at this time to objectively calculate the average orientation of a specific segment of a road or stream.

Staff finds the LDM tool objectively calculates the alignment for the rectangular template with the road or perennial stream to the maximum extent possible, reducing human subjectivity and error.

Calculating the directional mean of a one-mile road or stream segment, centered on the frontage of the subject property abutting the road or stream, to determine the appropriate alignment of the rectangular template, is consistent with the one-mile length of the rectangular template (see GIS #1 and GIS #2 on page 15 of 24 of Exhibit A, the original staff report). The result is a mathematically-determined template alignment that is consistent and objective and in keeping with the intent of the Legislature to apply template test criteria without bias or error.

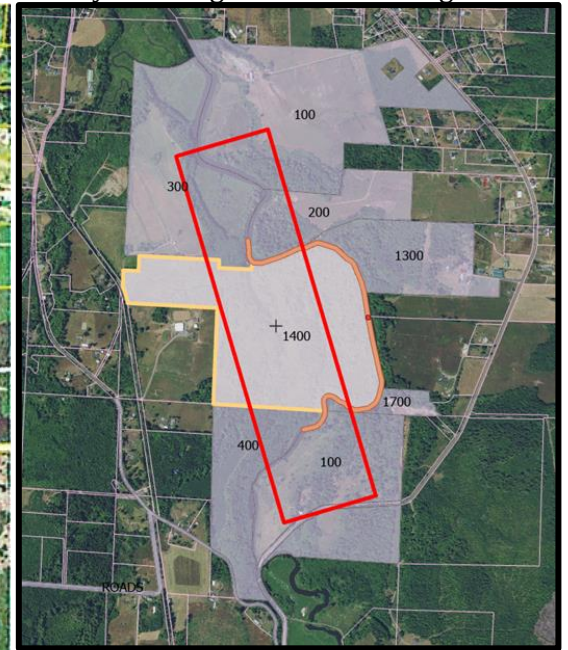
The template for TL 01400 generated by the LDM tool did not correspond to Mr. Palmberg's submittal. The two templates were aligned in completely opposite directions:

Application alignment submittal - Palmberg



Applicant

County LDM alignment – Palmberg



Clatsop County GIS

LAWDUC Section 3.9091(3)(G) requires the template to be aligned with the stream to the “maximum extent possible,” which staff finds to be best expressed using the LDM. The applicant's proposed template alignment is substantially different than the LDM result. According to the applicant, the alignment was derived by measuring the length of segments of the stream which generally run east-west and measuring the length of segments which generally run north-south. The applicant found that the total length of east-west segments was greater than the total length of north-south segments, and therefore determined the template should be aligned generally east-west. The methodology used by the applicant is flawed because it

completely discards the north-south segments, which account for nearly half of the subject property's stream frontage. By only considering a portion of the stream's alignment, the applicant's methodology does not align the template with the stream "to the maximum extent possible;" therefore, staff was not able to use the applicant's proposed alignment and instead determined the LDM result was more appropriate.

In his appeal submittal, Mr. Alterman asserted Section 3.9190 3)(G)1.b) allows the County to count dwellings toward the three-dwelling requirement that are within one-quarter mile from the edge of the subject property as long as they are not outside the length of the 160-acre rectangle. Mr. Alterman lists three such dwellings outside the County's template are that fall within one-quarter mile of the Palmberg property along the length of the template; however, staff reads the code by starting with Section (E) when reviewing the application of Section 3.9190(G)1.(b):

(E) A dwelling is in the 160-acre template if any part of the dwelling is in the 160-acre template.

(F) Except as provided by paragraph (G), if the subject tract abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160 acre rectangle that is one mile long and 1/4 mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

(G) The following applies where a tract 60 acres or larger abuts a road or perennial stream.

1. The measurement shall be made in accordance with paragraph (F). However, one of the three required dwellings shall be on the same side of the road or stream as the tract, and:

a) Be located within a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream; or

b) Be within one-quarter mile from the edge of the subject tract but not outside the length of the 160 acre rectangle, and on the same side of the road or stream as the tract.

Per (E), staff concludes that if a dwelling is considered to be within the 160-acre template if any part of it is within the template, then at least some part of the dwelling shall be within the template, even if the whole structure is not within the template, in order to be counted toward the three-dwelling total. Therefore, dwellings fully outside the template shall not be counted even if they are situated on a tract that is partially within the template.

However, to add further refinement to (E), (G)1. provides that one of the three dwellings shall be on the same side of the road or stream as the subject tract. (G)1.(b) allows staff to count a dwelling that is outside the template if the dwelling is within one-quarter mile from the subject property and within the length of the template. Staff finds the provision in (G)1.(b) refers to the dwelling mentioned in (G)1, and only the dwelling mentioned in (G)1. The provision should not be construed to allow all of the three dwellings to be outside the template but within the length and one-quarter mile of the subject tract. Otherwise, there is no reason for the code to require the template be a rectangle in the first place. Why not simply buffer the subject tract by one-quarter mile?

The purpose of the template test is to allow new dwellings only in areas which have already been developed to a certain extent. The rectangular template follows the typical models development follows – roads and waterways. The rectangle reveals the development pattern of the immediate neighborhood, where a buffer would take in far more area. (G) refers to one dwelling that may be outside the template by one-quarter mile from the subject tract and within the length of the template. Allowing two or more dwellings to be included in the count defeats the purpose of using the rectangle.

To this end, only one of the dwellings outside the rectangular template but within its length and within one-quarter mile of Mr. Palmberg's tract may be counted toward the three required for the template test. Additionally, the County's template calculated by County GIS staff using a professional GIS product found

only eight tax lots, not 11, as required by the criteria found in Section 3.9090 3)(C). However, even if 3.9090 3)(A) is used, the templates must include three dwellings from January 1, 1993 and currently existing, which it fails to do.

The staff report for Application #186-23-000089-PLNG finds T7N, R09W, Sec. 19, TL 00100, also known as 89246 Logan Road, is within the template area. Any one of the other dwellings Mr. Alterman mentions that existed on or before January 1, 1993, and which continues to exist, may also be counted toward the required three dwellings, but not all of them. This would result in two dwellings being counted toward the three necessary to meet the criteria. However, staff finds the template test remains deficient. A third dwelling within the template is required for a successful template test, and 11 tax lots are required, not eight, when evaluating the soils for Gindbrook-Walluski soils. If evaluating for Humitropepts soils, three tax lots are required. Regardless of which soil type is considered, three dwellings required.

The applicant's template does not align to the greatest extent possible with the river, as required by LAWDUC Section 3.9091(3)(G), and three dwellings are not located within the County template, which does align with the river to the greatest extent possible. The staff report is amended to include a second dwelling that meets the criteria of LAWDUC 3.9190 Section (G)1.(b), but not more than one.

II. PUBLIC NOTICE

ARTICLE 2. PROCEDURES FOR LAND USE APPLICATIONS

Section 2.1000. Procedure Types and Determinations of Proper Procedure

Section 2.1030. Type IIa Procedure

Section 2.2010. Responsibility of Director for Hearings

Section 2.2020. Mailed Notice of a Public Hearing

STAFF FINDING: Public notice was sent to adjacent property owners within 750 feet of the subject property and to public agencies per Sections 2.2020 on September 5, 2023 (**Exhibit C**). No comments have been received. Comments received after the date of this memo will be read into the record during the appeal hearing on September 25, 2023.

All requirements of the mailed notice to affected property owners and government agencies have been met.

Section 2.2030. Posted Notice of a Public Hearing [Ord. #17-02]

STAFF FINDING: Pursuant to Section 2.2030, a public hearing sign was posted on the road frontage of the subject property on August 31, 2023 (**Exhibit C**).

The requirements of Section 2.2.030 have been met.

Section 2.2050. Procedure for Mailed Notice

Section 2.2060. Procedure for Published Notice

STAFF FINDING: A notice was published in *The Astorian* on Saturday, September 9, 2023 (**Exhibit C**).

The requirements for a published notice have been met.

III. RECOMMENDED DECISION AND CONDITIONS OF APPROVAL

Based on the analysis and findings contained in this memo and the Notice of Decision denying the Template Test application, #186-22-000089, issued July 19, 2023, staff recommends that the Hearings Officer uphold the denial of the application. Additionally, staff recommends a second dwelling of the appellant's choosing may be added to the list of applicable dwellings, but finds the template does not contain the necessary number of tax lots. In the event the Hearings Officer finds the templates test may be approved, staff recommended the conditions of approval found in the Notice of Decision for Template Test #186-22-000089 be applied.



Exhibit A

DEAN N. ALTERMAN
ATTORNEY

D: (503) 517-8201
DEAN@ALTERMAN.LAW

Via e-mail to ghenrikson@clatsopcounty.gov

Clatsop County Community Development Department
c/o Ms. Gail Henrikson, Director
800 Exchange Street, Suite 100
Astoria, OR 97103

August 7, 2023

Re: Appeal of Jason Palmberg
Clatsop County Land Use File No. CUP #186-23-000089-PLNG
Our File No. 4090.002

Dear Ms. Henrikson:

I'm submitting this letter on behalf of Jason Palmberg, the applicant and appellant in this matter. Please include this letter in the record for the hearings officer.

A. Summary of Decision and Questions Presented

Jason Palmberg applied for a conditional use permit to allow a dwelling on a 109-acre tract assessed as Tax Lot 1400 in Section 18, Township 7 North, Range 9 West of the Willamette Meridian. The county found administratively that Mr. Palmberg met all but one of the criteria for the permit. One criterion for approval is that a template (a rectangle laid out according to certain principles) must include at least three dwellings that existed on January 1, 1993, as described in Land and Water Development and Use Code (LAWDUC) § 3.9190(3)(C). Mr. Palmberg proposed a template that included three qualifying dwellings.

The county applied a different template that did not include three qualifying dwellings. On that basis the county denied Mr. Palmberg's application.

This appeal presents a series of straightforward questions:

1. Does LAWDUC § 9.9190(3)(C) require Clatsop County to apply the specific template that the county elected to apply?
2. Does Mr. Palmberg qualify under the county's proposed template?
3. If § 9.9190(3)(C) does not require Clatsop County to apply the specific template that the county elected to apply, and if the applicant proposes an

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alternate template that complies with code and that includes three qualifying dwellings, has the applicant satisfied the code requirement?

4. Does the template that Mr. Palmberg proposed comply with the code requirements?

For the reasons I set out below, the code does not require the county to apply the template that it chose to apply. In the specific layout of this property and the nearby roads and streams, several different templates satisfy the code requirement. If any one of those templates when applied to Mr. Palmberg's property includes three qualifying dwellings, then Mr. Palmberg has satisfied the requirement.

In this particular case, Mr. Palmberg proposed a template that both complies with the code requirements and includes three qualifying dwellings. Accordingly the county erred in denying him a conditional use permit. The hearings officer should reverse the administrative decision and grant the permit.

B. Relevant Code and Statute

The analysis begins with the code. Mr. Palmberg's property is larger than 60 acres and borders a perennial stream. The relevant standards are in Section 3.9190(3) of the LAWDUC, which the county adopted nearly word for word from OAR 660-006-0027. The relevant standards are as follows:

- 3) A single family "template" dwelling authorized under ORS 215.750 on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:
 - (A) Capable of producing zero to 49 cubic feet per acre per year of wood fiber if:
 1. All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 2. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
 - (B) Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:
 1. All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 2. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
 - (C) Capable of producing more than 85 cubic feet per acre per year of wood fiber if:

1. All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

2. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

* * *

(F) Except as provided by paragraph (G), if the subject tract abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160 acre rectangle that is one mile long and $\frac{1}{4}$ mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

(G) The following applies where a tract 60 acres or larger abuts a road or perennial stream.

1. The measurement shall be made in accordance with paragraph (F). However, one of the three required dwellings shall be on the same side of the road or stream as the tract, and:

a) Be located within a 160-acre rectangle that is one mile long and one-quarter mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream; **or**

b) be within one-quarter mile from the edge of the subject tract but not outside the length of the 160 acre rectangle, and on the same side of the road or stream as the tract.

The first important point is that Sections A, B, and C require that a certain number of parcels be within the template that the county applies, and also require that at least three of those parcels include a dwelling. They do **not** require that the dwelling itself be within the template. State law allows but does not require the county to enact a requirement that the dwellings will count only if the dwellings are within the template. Clatsop County has not done so.

The second important point is that Section G.1.b allows Mr. Palmberg to include dwellings that are not in the template area, if they were built before 1993, are on the same side of the stream as his tract, are within one quarter-mile from the edge of his tract,¹ and are not beyond the ends of the template rectangle measured in its longer direction.

¹ Again, the code and state law allow the qualifying dwellings to be outside the template as long as they're within a quarter-mile of Mr. Palmberg's property line and on the same side of the river as his property.

In order to determine the appropriate template, the county must make two determinations. First is to determine the “center of the tract.” Second is to orient the template with the Lewis & Clark River “to the maximum extent possible.”

OAR 660-006-0027 solves the first problem. It defines “center of the subject tract” to be the mathematical centroid of the tract – the point that would be the center of gravity of an object with the shape of the tract.

Neither OAR nor the LAWDUC attempts to define the term “to the maximum extent possible.” I have found no case that interprets the term. The county must therefore explain why it believes its template to align with the river better than Mr. Palmberg’s template.

In Case No. 186-22-000253-PLNG (copy attached), the application of Angela Beck for a forest template dwelling, the subject property bordered no river. It bordered a short section of Youngs River Road that ran almost exactly north-south past the property. An alignment with the road to the maximum extent possible would therefore also run north-south.

However, in Beck the county apparently adopted a template that ran east-west, without explaining why it ignored the portion of the road that actually touched the subject property. (Beck decision, pages 13-14, 34.)

I mention this point not to criticize the Beck decision, but to underscore that in similar cases the county has accepted an applicant’s reasonable proposal for a template even when it is not aligned with an adjoining road to the maximum extent possible.

C. The County must explain in its findings why it chose the template that it chose: it must explain how it decides what it means to align the template with Lewis & Clark River “to the maximum extent possible.”

It’s a basic principle of Oregon land use that counties must adopt findings that explain the criteria and standards relevant to the decision and the justification for the decision based on the criteria, standards, and facts. ORS 215.416(9).

In this instance, Mr. Palmberg proposed a rectangle for the template that aligns with more of the river that bounds his property than the template that the county is applying. Mr. Palmberg explained his calculation and demonstrated that a template oriented generally southwest to northeast is more nearly aligned with more of the adjacent river than the county’s proposed southeast-to-northwest template.

The county has not adequately explained why it believes that its template is a better fit to the river than Mr. Palmberg’s template. Since Mr. Palmberg’s template is the only template in the record that is supported by both argument and

mathematics, the county erred in not applying his proposed template to his application.

D. Mr. Palmberg qualifies for the permit under the county's template because at least three dwellings must be counted under LAWDUC § 3.9190(3)(G)(1)(b).

However, even under the county's template, Mr. Palmberg qualifies for the permit because three existing dwellings qualify under § 3.9190(3)(G)(1)(b).

I understand that the county chose a template that aligns with the portion of the Lewis & Clark River that forms the east border of Mr. Palmberg's property. That section of river runs north and a little bit west. I've approximated the county's template in brown on the attached map.

Three dwellings that were built before 1993 are on the same side of the river and are within one quarter-mile of Mr. Palmberg's property line. They are:

TL 905	89503 Lewis & Clark Road (Brim)	built 1989
TL 900	89469 Lewis & Clark Road (Meadows)	built 1956
TL 1002	89605 Lewis & Clark Road (Berry)	built 1976

All three dwellings are south of the north end of the county's proposed template, and north of the south end of the county's proposed template. Accordingly, under the county's proposed template Mr. Palmberg qualifies for a template dwelling.

The county erred in not counting these three dwellings toward the requirement when it applied its template. Had the county counted these three dwellings toward the requirement, it would have granted Mr. Palmberg a permit.

In addition to those three dwellings, each of which the code allows Mr. Palmberg to count toward the requirement of three, the county's proposed template also includes portions of Tax Lot 1700, 89502 Logan Road (Herzog), which includes a mobile home built in 1973, and Tax Lot 100, 89246 Logan Road (Tagg), which includes a house built in 1965. The Tagg house appears to be inside the county's template.

E. Mr. Palmberg qualifies under his own template, which is better aligned with the river than the county's proposed template.

Will Caplinger submitted an analysis of Mr. Palmberg's proposed template and identified the qualifying parcels and dwellings. I won't repeat that analysis here except to add that no one disputes that if the county adopts Mr. Palmberg's proposed template, then he qualifies for the conditional use permit.

F. Conclusion

Whether the county applies its own template or Mr. Palmberg's template, Mr. Palmberg meets the criteria for the conditional use permit. The county can adopt his template, which is aligned with the river much more reasonably than the template that it adopted in the Beck application, which was not aligned with the road.

The hearings officer should grant the appeal and the permit.

Very truly yours,

ALTERMAN LAW GROUP PC

Dean N. Alterman

Dean N. Alterman

Attachments: Beck decision
Map of relevant area



Clatsop County

Community Development – Planning

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NOTICE OF DECISION

Date: September 30, 2022

Applicant/Owner: Angela Beck
46692 Old 77 Vesper Ln
Birkenfeld, OR 97016

Property Description: T7N, R09W, Sec. 14, Tax Lot 604;

Request: Conditional Use Forest Template Dwelling #186-22-000253-PLNG

Action: **APPROVAL – With Conditions**

To whom it may concern,

The Community Development Department has completed review of the request cited above. This decision includes findings and conditions of approval, attached.

If you, or a party with standing, wish to appeal this decision, you may do so, up to the date and time appearing at the bottom of this letter. The appeal must comply with Section 2.2190 of the Clatsop County Land and Water Development and Use Code #20-03 (procedure for an appeal). This department will not issue development permits for any activities or structures until the 12-day appeal period has expired.

If you have any questions regarding this decision, appeal procedures or any of the conditions of approval, please contact me at (503) 325-8611.

Sincerely,

Gail Henrikson, Director
Community Development Department

Attachments: Conditions of Approval
Staff Report
Exhibits

DEADLINE TO APPEAL: 4:00 P.M. Wednesday, October 12, 2022



Clatsop County

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CONDITIONS OF APPROVAL

Conditional Use Permit #186-22-000253-PLNG

1. Prior to construction, the applicant shall obtain a Type I Development Permit from the Planning Division and all appropriate building permits from the Building Codes Division. The Development Permit application shall include the following items:
 - a. A final site plan commensurate with LAWDUC Section 4.3400 (AF Zone development standards) and Section 3.9250 (Fire Protection Standards for Dwellings and Structures);
 - b. An outdoor lighting plan commensurate with Ordinance 20-02;
 - c. Grading, Drainage and Erosion Control Plan Review application for the proposed driveway access;
 - d. Road approach approval from Clatsop County Public Works; documentation the access road meets applicable standards in Section 3.9800; and proof of an easement for ingress and egress through TL 600;
 - e. Verification of an adequate year-round supply of potable water in accordance with Section 3.0040 and Section 3.9240(3).
 - f. A completed Agency Review & Approval Form;
 - g. An erosion control plan commensurate with Section 3.2000 Erosion Control Development Standards;
2. All development within the Geologic Hazards Overlay District (GHO) shall be subject to the requirements of Section 5.3000 and approval of a geologic hazard permit prior to issuance of a development permit.
3. The landowner for the parcel shall sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. In addition, the **"Resource Zone Disclosure Statement"** and **"Good Neighbor Clause"** shall be recorded on the deed of the subject parcel with the County Clerk's Office. Community Development shall be provided with a copy of the recorded document prior to the issuance of the development permit for the dwelling.
4. A sufficient number of trees shall be planted on the property in accordance with Oregon Department of Forestry (ODF) stocking requirements. The applicant/owner shall provide the Land Use Planning Division documentation that the property satisfies the ODF requirements.
5. All development shall comply with the following fire protection standards:
 - a. The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the structures that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, published by the Oregon Department of Forestry; and shall also demonstrate compliance with Table 3.1.
 - b. All structures shall have a fire-retardant roof.

- c. Structures shall not be sited on a slope of greater than 40 percent.
- d. If the structure has a chimney or chimneys, each chimney shall have a spark arrester.

Other regulations also apply, including, but not limited to, the following:

1. Development shall comply with all applicable state, federal and local laws and regulations. Copies of all required state and/or federal permits shall be provided to the Planning Division.
2. This conditional use dwelling permit is valid for a period of four (4) years from the date of approval. This authorization is void after four (4) years from the date of approval unless substantial construction has begun per Section 1.0500. The Community Development Director has the discretion to authorize extension of this approval for an additional two (2) years upon request, provided the request is submitted in writing at least 10 days before and no more than 30 days prior to expiration of the permit.



Clatsop County

Community Development – Planning

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Astoria, OR 97103
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STAFF REPORT

Conditional Use Application #186-22-000253-PLNG

DATE: September 30, 2022

REQUEST: Type II conditional use application for a single-family dwelling subject to the "template test" per LAWDUC 4.3440(14) and 3.9180.

APPLICANT/OWNER: Angela Beck
46692 Old 77 Vesper Ln
Birkenfeld, OR 97016

PROPERTY DESCRIPTION: T7N, R09W, Sec. 14, Tax Lot 604 (±4.6 acres)

ZONING DESIGNATION: Agriculture-Forestry (AF)

Overlays/Layers: *Geologic Hazards Overlay (GHO)*
Statewide Wetlands Inventory (SWI; regulated by the Oregon Department of State Lands)

COUNTY STAFF REVIEWER: Ian Sisson, Senior Planner

TYPE II DECISION MAKER: Community Development Director

APPLICATION SUBMITTED: May 5, 2022

DEEMED COMPLETE: August 10, 2022 (150 days: January 7, 2023)

STAFF RECOMMENDATION: Approval – Subject to Conditions

PUBLIC COMMENTS: Clatsop County Onsite Septic

EXHIBITS:

1. Application Materials
2. Public Notice and Comments
3. Lot of Record Determination #21-000716

APPLICATION SUMMARY

On May 5, 2022, Angela Beck submitted an application to Clatsop County Community Development to establish a single-family dwelling on property she owns in unincorporated Clatsop County. The subject property is described as Township 7N, Range 09W, Section 14, Tax Lot 604, approximately 4.6 acres in size, located in the Agriculture-Forestry Zone (AF) and Geologic Hazards Overlay District (GHO). The Statewide Wetlands Inventory (SWI; regulated by the Oregon Department of State Lands) indicates predominantly hydric soil map units, a potential wetland indicator, in a narrow strip at the front of the property and in an approximately 0.4-acre area near the rear property line.

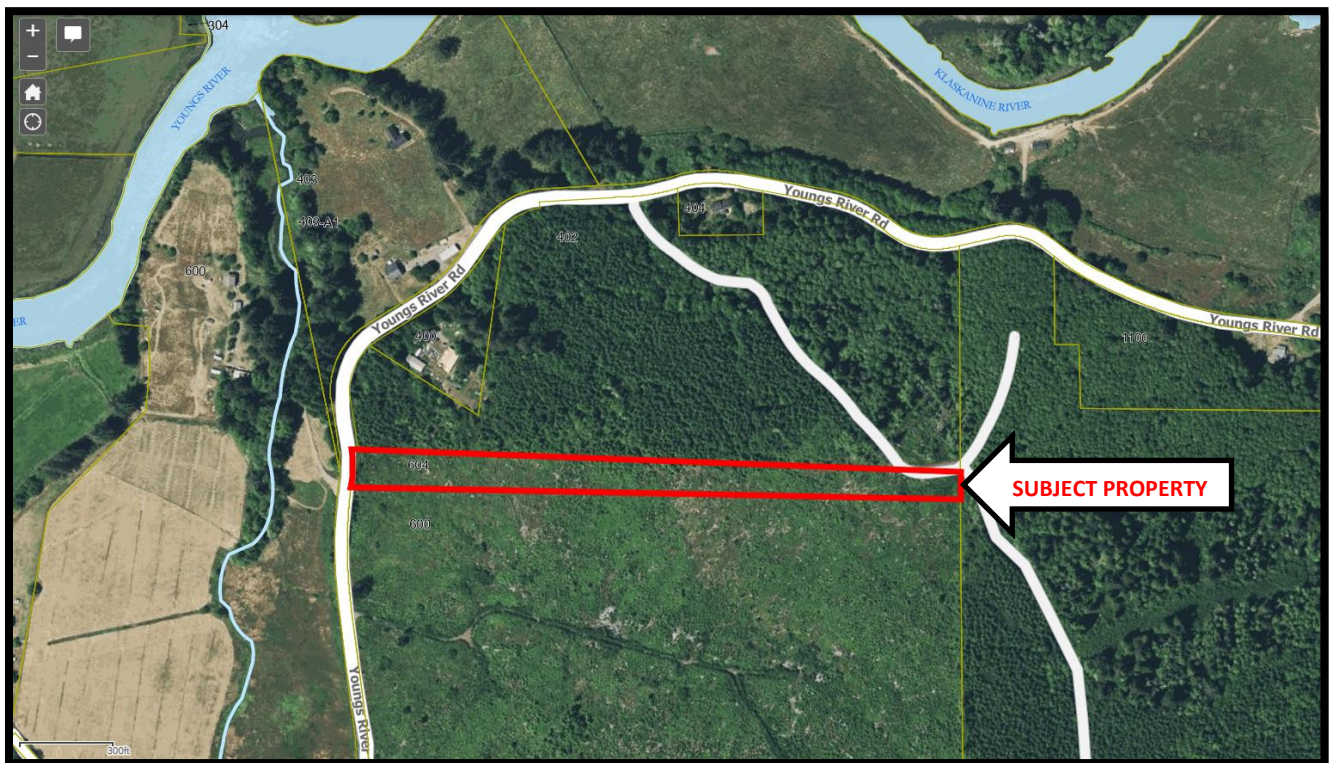
According to a preliminary site plan submitted by the applicant (Exhibit 1), the proposed single-family dwelling would be approximately 2,000 sq. ft with a 1,000 sq. ft attached garage, located $\pm 110'$ from the front property line. Access to the proposed dwelling would be through TL 600, south of the subject property, via an existing road approach.

Single-family dwellings can be permitted in the AF Zone under a Type II conditional use procedure subject to the "template test" per Land and Water Development and Use Code 20-03 (LAWDUC) Section 4.3440(14)(C). The application was deemed incomplete by staff on June 6, 2022. After receiving the requested information, the application was deemed complete on August 10, 2022. Notice of the application was mailed to interested parties and surrounding property owners on August 24, 2022 (Exhibit 2). Based on the findings and conclusions contained in this report, the application satisfies the applicable review criteria and can be approved with conditions.

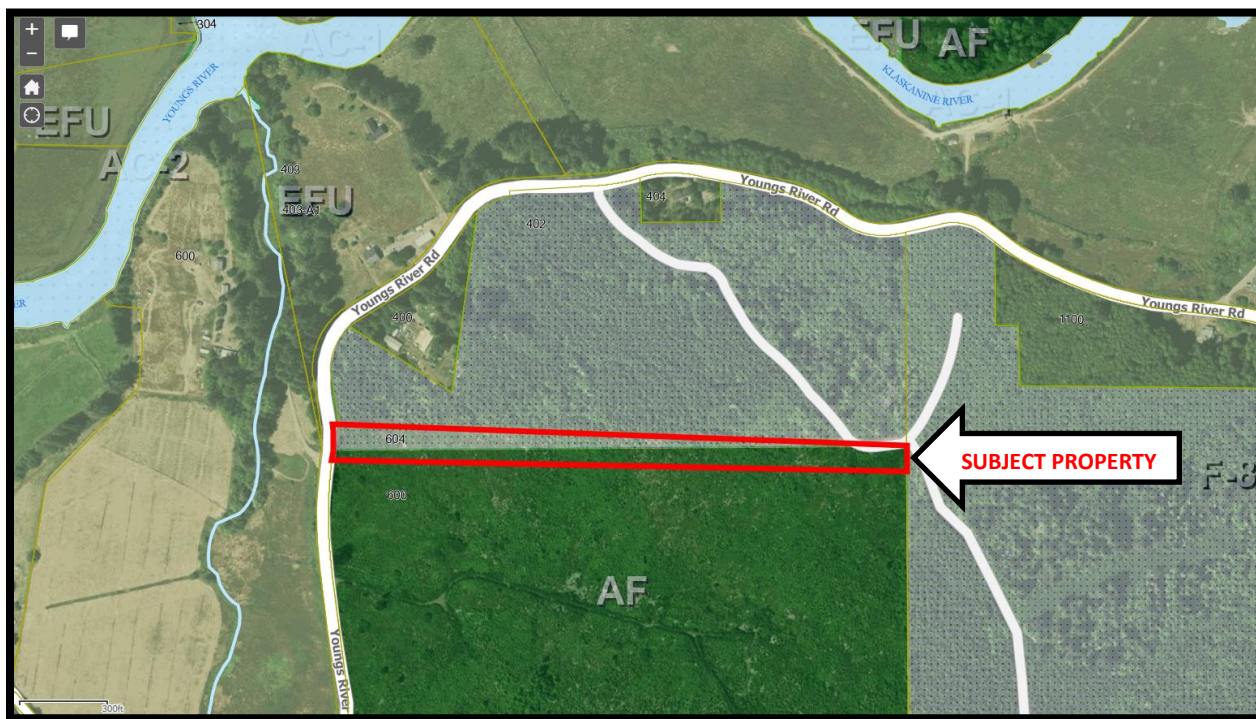
PROPERTY STATUS

According to Lot of Record Determination #21-000716, as amended January 11, 2022 (Exhibit 3), the subject property meets the definition of a "lot of record" (Section 1.0500, LAWDUC) and is a single parcel for land use purposes. Assessor records do not indicate the presence of any structures on the property.

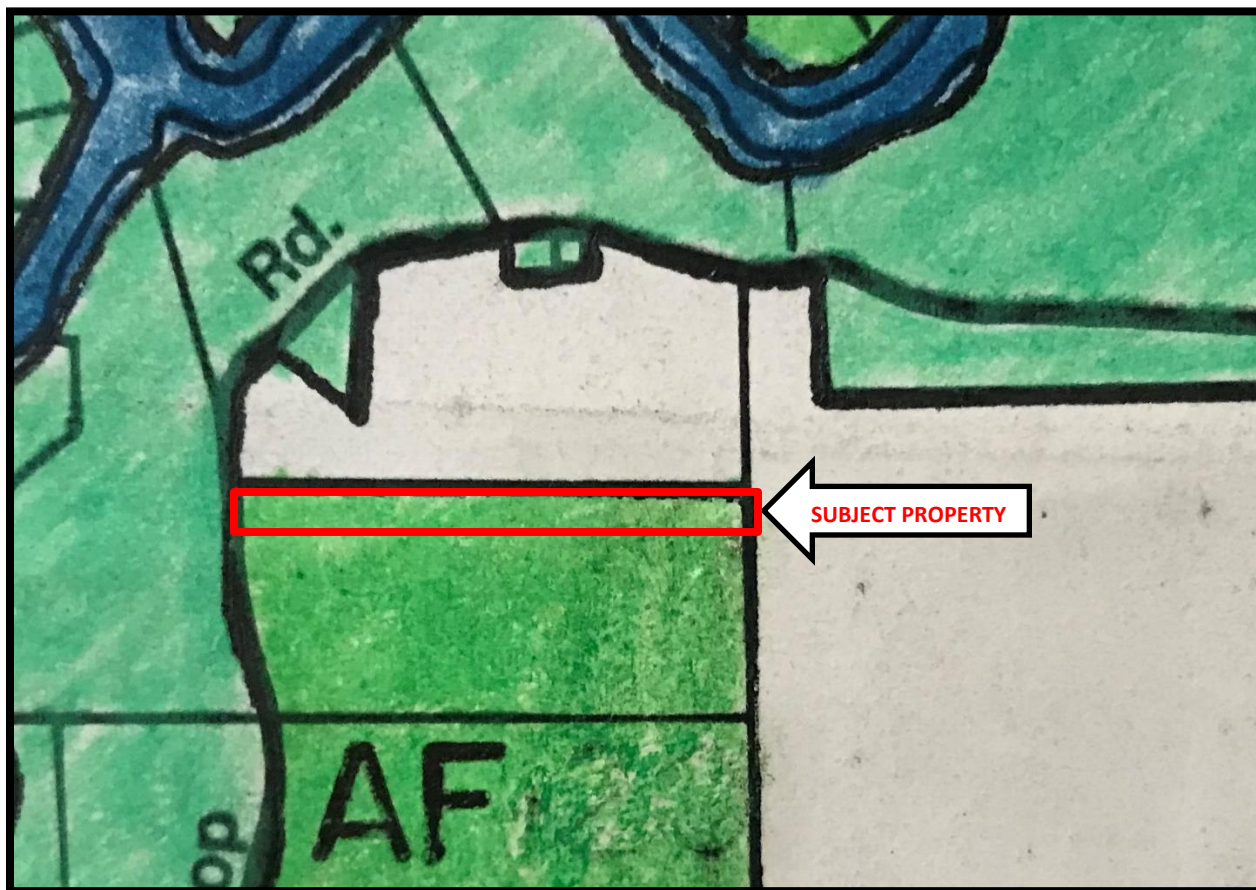
2018 Aerial Photo:



Zoning Map (Clatsop County Webmaps) *



Zoning Map (Original Copy) *



* - NOTE: Clatsop County Webmaps indicates the property is split-zoned AF and F-80; however, this appears to be a mapping error as the original zoning map indicates the property is entirely zoned AF.

I. APPLICABLE CRITERIA

The applicable criteria for this land use application are contained in the following documents and sources:

Land and Water Development and Use Code 20-03 (LAWDUC):

- 1.0500 Definitions
- 2.1020 Type II Procedure
- 2.2040 Mailed Notice for a Type II Procedure
- 2.2050 Procedure for Mailed Notice
- 2.4000 Conditional Development and Use
- 2.9400 Site Plan Review
- 3.2000 Erosion Control Development Standards
- 3.9180 Forest Zone Standards
- 3.9550 Vehicle Access Control and Circulation
- 3.9800 Transportation Improvements and Road Standard Specifications
- 4.3400 Agriculture-Forestry Zone (AF)
- 5.3000 Geologic Hazards Overlay District (GHO)

COMPREHENSIVE PLAN

- Goal 1 – Citizen Involvement
- Goal 2 – Land Use Planning
- Goal 4 – Forest Lands
- Goal 5 – Open Spaces, Scenic and Historic Areas and Natural Resources
- Goal 6 – Air, Water, and Land Resources Quality
- Goal 7 – Areas Subject to Natural Disasters
- Goal 11 – Public Facilities and Services

Lewis & Clark, Olney-Wallooskee Community Plan

II. APPLICATION EVALUATION

The following section examines the application versus the applicable criteria.

A. Clatsop County Land and Water Development and Use Code (20-03)

ARTICLE 2. PROCEDURES FOR LAND USE APPLICATIONS.

Section 2.1020. Type II Procedure.

Section 2.2040. Mailed Notice for a Type II Procedure.

STAFF FINDINGS and CONCLUSION: Notice of the application was mailed to property owners within 750 feet of the subject property in accordance with the requirements of Section 2.2040 (see Exhibit 2). Comments received during the 10-day public comment period are summarized in Section III of this report. **The criteria for a Type II review procedure have been satisfied.**

ARTICLE 4. ZONES AND SPECIAL PURPOSE DISTRICTS.

SECTION 4.3400. AGRICULTURAL-FORESTRY ZONE (AF).

Section 4.3440. Conditional Development and Use

(14) The following residences may be approved on land that was predominantly in forest use on January 1, 1993:

- (C) A single family dwelling may be allowed subject to the “template test” described in Section 3.9190, and subject to the approval criteria and conditions in Section 3.9240, 3.9800, and 3.9190.

STAFF FINDINGS AND CONCLUSION: The applicant has requested authorization to develop the subject property with a single-family dwelling via the template test, which is a Type II conditional use in the AF Zone per Section 4.3440(14)(C), subject to applicable review criteria. **The proposed use can be permitted in the AF Zone under a Type II procedure, subject to applicable criteria, development standards and site plan review. This report will demonstrate the proposal satisfies the applicable criteria with appropriate conditions of approval.**

Section 4.3460. Development and Use Standards.

The following standards are applicable for permitted and conditional development in this zone:

- 3) Setbacks for buildings:
 - (A) Front yard: 30 feet
 - (B) Side and rear yard: 20 feet

APPLICANT RESPONSE: The tentative site plan shows a ±110 ft. front yard setback, ±30 ft. side yard and ±1,750 ft. rear yard.

- 4) Maximum building height: 45 feet

APPLICANT RESPONSE: The building height for the proposed dwelling will be approximately 20-feet.

- 5) Dwellings and structures in the AF Zone are subject to the F-80 siting standards in Section 3.9240 and the fire siting standards in Section 3.9250.

APPLICANT RESPONSE: The applicant’s responses to Sections 3.9240 and 3.9250 are included later in this report and demonstrate the proposal does or can satisfy the applicable criteria through conditions of approval.

STAFF FINDINGS AND CONCLUSION: The applicant has provided a preliminary site plan and responses demonstrating the siting of the proposed dwelling would satisfy the AF Zone setback requirements and building height limit, as well as the siting standards in Section 3.9240 and 3.9250, which are addressed specifically later in this report. Prior to construction, the applicant shall obtain a Type I Development Permit and provide the Planning Division a final site plan and building plans to verify all development standards will be satisfied (Condition #1A). **The proposal will satisfy the applicable AF Zone development and use standards through a condition of approval. (See Condition #1A)**

SECTION 2.4000. CONDITIONAL DEVELOPMENT AND USE.

Section 2.4020. Application for a Conditional Development and Use.

If a development and use is classified as conditional in a zone, it is subject to approval under Sections 2.4000 to 2.4050. An applicant for a proposed conditional development and use shall provide facts and evidence and a site plan in compliance with Section 2.9400 sufficient to enable the Community Development Director or hearing body to make a determination.

Section 2.4030. Authorization of a Conditional Development and Use.

(3) In addition to the other applicable standards of this ordinance, the hearing body must determine that the development will comply with the following criteria to approve a conditional development and use.

(A) The proposed use does not conflict with any provision, goal, or policy of the Comprehensive Plan.

APPLICANT RESPONSE: The proposed use complies with Policy 1 of the Comprehensive Plan, to conserve forest lands for forest uses. Since the development code (LAWDUC) implements the Comprehensive Plan, a single-family dwelling subject to the template test in LAWDUC 4.3440(14)(C) is a conditional use in the forest lands and is therefore accessory to a forest use. Moreover, the dwelling will be occupied by the forest landowner, which will facilitate management and oversight of the resource.

(B) The proposed use meets the requirements and standards of this ordinance.

APPLICANT RESPONSE: The proposed use will meet the use standards in what is now LAWDUC under Ordinance 21-05, including compliance the following provisions: [applicant goes on to address applicable LAWDUC criteria; responses are included elsewhere throughout this report].

STAFF FINDINGS and CONCLUSION: Single-family dwellings can be permitted in the AF Zone, as documented above; therefore, the use has been determined to be generally compatible with the Comprehensive Plan and LAWDUC, subject to applicable criteria and appropriate conditions of approval. **This report evaluates the proposal against the applicable criteria found in the Comprehensive Plan and LAWDUC, demonstrating all criteria are satisfied or can be satisfied with conditions of approval.**

(C) The site under consideration is suitable for the proposed use considering:

- 1) The size, design, and operating characteristics of the use, including but not limited to off-street parking, fencing/buffering, lighting, signage, and building location.
- 2) The adequacy of transportation access to the site, including street capacity and ingress and egress to adjoining streets.
- 3) The adequacy of public facilities and services necessary to serve the use.
- 4) The natural and physical features of the site such as topography, natural hazards, natural resource values, and other features.

APPLICANT RESPONSE: 1) The subsequent development site will be developed in compliance with these and other development standards as necessary and appropriate.

2) The frontage of the subject parcel on Youngs River Road ensures that adequate access to the site can be provided, although the tentative site plan proposes a driveway that extends from an existing forest road as described under Response “B” Section 3.9250. The proposed vehicular access site will be subject to the approval of a Public Works Department road approach permit.

3) Public facilities and services are adequate for the numerous homes developed in this area, yet the applicant will obtain sign-offs for the proposed new dwelling from the respective responsible agencies.

4) The topography of the subject property and area is generally suitable for the small-scale structures and infrastructure associated with single-family dwellings. The subject property is within the Geological Hazard Overlay, but development will either be located in an area that does not include the hazards generally identified in the GHO, or the site will be developed subject to obtaining and complying with a GHO permit and its recommendations.

STAFF FINDINGS and CONCLUSIONS: (1) and (2): According to the applicant's tentative site plan (Exhibit 1), the proposed development consists of a single-family dwelling with an attached garage and driveway access. The applicant has proposed to access the property via an existing logging road through an adjacent property (TL 600), with a new driveway connection from that road to the proposed dwelling site, around 400 feet in length. The existing logging road connects to Youngs River Road, a County road classified as a major collector. The dwelling would be sited approximately 110 feet from Youngs River Road and 30 feet from each side property line. An onsite septic system would be located between the house and the road. The developed area of the subject property would be about 0.5 acres of the approximately 4.6-acre total area.

The subject property is in the AF Zone, where a single-family dwelling can be permitted as a conditional use, subject to specific siting standards, which are addressed later in this report under Section 3.9240 and 3.9250. Condition of Approval #1A will require submittal of a final site plan demonstrating compliance with all applicable development standards, including two off-street parking spaces. Any outdoor lighting will be required to be fully shielded and installed in accordance with Ordinance #20-02 (Condition #1B). Elements such as buffering, fencing, and signage do not apply. As discussed in greater detail later in this report, the subject property is in the Geologic Hazards Overlay District (GHO), where development is subject to a geologic hazard permit (Condition #2). Grading, Drainage and Erosion Control Plan Review will be required prior to constructing the proposed driveway connection (Condition #1C), and the applicant will be required to provide documentation of road approach approval and an ingress-egress easement through TL 600 (Conditions #1D). Road design and construction shall meet the minimum requirements described in Section 3.9800, LAWDUC.

(3) The subject property is within the Olney-Walluski Fire and Rescue District. The applicant has indicated water would be provided via a rainwater catchment system. Pursuant to Section 3.0040, Condition #1E will require that the applicant obtain approval of the proposed system by the Building Codes Division and to demonstrate the system will provide a year-round supply of at least 250 gallons of water per day. The applicant has proposed to use an onsite septic system for sewage disposal. Comments received from the Clatsop County Onsite Septic Program (Exhibit 2) indicate a site evaluation has not been conducted and will be required prior to obtaining a construction permit. A completed Agency Review & Approval Form shall be provided to the Land Use Planning Division prior to issuance of a development permit to provide final confirmation that all necessary facilities and services will be available to serve the proposed dwelling. (Condition #1F).

(4) According to Google Earth and Clatsop County Webmaps information, the subject property slopes gently upward from Youngs River Road to the rear property line. The site and surrounding area are within the GHO, mapped with landslide topography. All development will be subject to Section 5.3000 and require geologic hazard permit review (Condition #2). There is a small area along the front property line mapped with hydric soils, which may indicate the presence of wetlands; however, based on Google Earth imagery, it appears very unlikely wetlands are present on the east side of Youngs River Road and much more likely that any wetlands terminate on the west side of the road. Other natural features of the site include good soil for the production of forest products. According to the NRCS Web Soil Survey (WSS), the predominant soil types are 20B and 20C, Grindbrook silt loams, capable of producing 214 cubic feet of wood fiber per acre annually. The applicant has proposed to site the dwelling and septic system near the front of the property, occupying approximately 0.5 acres of the 4.6-acre property and leaving the remaining area in forest use.

Through compliance with the applicable development standards and conditions of approval described throughout this report, the site will be suitable for the proposed use.

(D) The proposed use is compatible with existing and projected uses on surrounding lands, considering the factors in (C) above.

APPLICANT RESPONSE: Existing uses on surrounding lands are a mix of farm and forest uses, including portions of at least three dwellings within the one-mile-long template test rectangle aligned with the road. Moreover, there are four other dwellings established prior to 1/1/1993 that are outside of the template but are on parcels that have a portion within the template. The proposed single-family dwelling will follow the same established development model of dispersed rural residences on resource-land parcels.

STAFF FINDINGS and CONCLUSION: Based on the existing and projected development pattern in the area, a mix of rural acreage homesteads and farm and forestland, the placement of a dwelling on the subject property is not expected to have a significant impact on existing or projected uses on surrounding land. Development must also comply with the forest-zone siting standards set forth in Sections 3.9240 and 3.9250, which will ensure compatibility with the surrounding forestland. **This criterion is satisfied.**

(G) The use is consistent with the maintenance of peripheral and major big game habitat on lands identified in the Comprehensive Plan as Agricultural Lands or Conservation Forest Lands. In making this determination, consideration shall be given to the cumulative effects of the proposed action and other development in the area on big game habitat.

APPLICANT RESPONSE: The subject property is not within the mapped peripheral or major big game habitat areas.

STAFF FINDINGS AND CONCLUSION: The subject property is not within mapped big game habitat; however, notice of the application was sent to the Oregon Department of Fish and Wildlife (ODFW). No response was received back from ODFW. Based on the lack of mapped habitat and comments from ODFW, the proposal is not expected to impact big game habitat. **This criterion is satisfied.**

SECTION 2.9400. SITE PLAN REVIEW

Section 2.9410. Site Plan Review Requirements. Before a permit can be issued for development in a special purpose district or for a conditional development and use or a development and use permitted with review, a site plan for the total parcel and development must be approved by the Community Development Director or Planning Commission. Information on the proposed development shall include sketches or other explanatory information the Director may require or the applicant may offer that present facts and evidence sufficient to establish compliance with Sections 1.1040, 1.1050 and the requirements of this Section.

STAFF FINDINGS AND CONCLUSION: The application includes a preliminary site plan (see Exhibit 1). Review and approval of a final site plan will be required prior to site preparation or construction (Condition #1A). **This section will be satisfied with a condition of approval (see Condition #1A).**

ARTICLE 3. STRUCTURE SITING AND DEVELOPMENT STANDARDS

Section 3.0040. Water Improvement Standards.

A year-round supply of at least 250 gallons of water per day by one of the following sources:

Source	Standard	Proof
Public or Community Water	Within Water Utility or area of service	Written correspondence from Water Utility stating water is available at the property line or conditions to the satisfaction of the Water Utility to make water available at the property line
Well	Existing well or easement provided no more than three (3) households use one well as a potable water source. Over three households must	Well log data as to required quantity from certified well driller. Potability test from certified water lab.

	meet state potable requirements (ORS 448.115)	
Spring	Application from the State of Oregon Water Dept. for domestic water rights of at least .005 CFS (2.25 gals/min). Existing spring on property or easement to spring on adjacent property. Minimal development collection system and sediment box	Permit from the State of Oregon Water Resources Department for domestic water right. Certified to required quantity by Oregon Registered Engineer, Land Surveyor or qualified hydrologist. Potability test from certified water lab
River, stream, pond or hand dug well	Application from the State of Oregon Water Department for domestic water right of at least .005 CFS (2.25 gals/min)	Permit from the State of Oregon Water Resources Department for domestic water right. Potability test from certified water lab.
Rainwater Catchment System	Oregon Building Codes	Design approved by Clatsop County Building Codes

APPLICANT RESPONSE: The applicant intends to establish a rainwater catchment system, subject to the approval of Building Codes.

STAFF FINDINGS AND CONCLUSION: The applicant has proposed to satisfy Section 3.0040 by installing a rainwater catchment system. According to phone conversations with the applicant, the applicant has installed a catchment system on her existing dwelling and is familiar with design and operating requirements. A condition of approval will require that the applicant obtain approval of the proposed system by the Building Codes Division and to demonstrate the system will provide a year-round supply of at least 250 gallons of water per day. **This section will be satisfied with a condition of approval (see Condition of Approval #1E)**

Section 3.2000. EROSION CONTROL DEVELOPMENT STANDARDS

Section 3.2010. Purpose.

The objective of this section is to manage development activities including clearing, grading, excavation and filling of the land, which can lead to soil erosion and the sedimentation of watercourses, wetlands, riparian areas, public and private roadways. The intent of this section is to protect the water quality of surface water, improve fish habitat, and preserve top soil by developing and implementing standards to help reduce soil erosion related to land disturbing activities. In addition, these standards are to serve as guidelines to educate the public on steps to take to reduce soil erosion.

STAFF FINDINGS AND CONCLUSION: Prior to site preparation and development, the applicant shall provide an erosion control plan to the Planning Division commensurate with Section 3.2000 (Condition #1G). Grading, Drainage and Erosion Control Plan Review will be required prior to constructing the proposed driveway connection (Condition #1C). **This section will be satisfied with a condition of approval (see Conditions #1C and 1G)**

SECTION 3.9000. FARM AND FOREST ZONE STANDARDS

Section 3.9080. General Standards.

(2) Single-family dwelling deeds. The landowner shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

APPLICANT RESPONSE: Following approval of the Template Test, the applicant shall record such instrument in the deed records.

STAFF FINDING AND CONCLUSION: This deed requirement, commonly referred to locally as a Good Neighbor Clause and a Resource Disclosure Statement, shall be required as a condition of approval. (See Condition of Approval #3)

SECTION 3.9180. FOREST ZONE STANDARDS. [Ord. 18-02]

Section 3.9190. Residential Uses.

(3) A single family “template” dwelling authorized under ORS 215.750 on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

(C) Capable of producing more than 85 cubic feet per acre per year of wood fiber if:

- 1) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
- 2) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

(D) Lots or parcels within urban growth boundaries shall not be used to satisfy eligibility requirements.

(E) A dwelling is in the 160-acre template if any part of the dwelling is in the 160-acre template.

(F) Except as provided by paragraph (G), if the subject tract abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160 acre rectangle that is one mile long and 1/4 mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

(H) A proposed “template” dwelling under this ordinance is not allowed:

- 1) If it is prohibited by or will not comply with the requirements of an acknowledged comprehensive plan, acknowledged land use regulations, or other provisions of law;
- 2) Unless it complies with the requirements of Sections 3.9240 and 3.9250;
- 3) Unless no dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under paragraph (1)(C) or 4.3500(4) for the other lots or parcels that make up the tract are met; or
- 4) If the tract on which the dwelling will be sited includes a dwelling.

APPLICANT RESPONSE: The subject property is capable of producing more than 85 cubic feet per acre of wood fiber, and the spreadsheet submitted previously lists the required 11 other parcels and three dwellings that comply with subsection (C). Since the subject property abuts Youngs River Road, the applicant previously submitted a 160-acre rectangle map that aligns with the road and depicts the requisite portions of parcels and dwellings.

STAFF FINDINGS AND CONCLUSION: According to the Natural Resources Conservation Service (NRCS) Web Soil Survey (WSS), the predominant soil type present on the subject property is 20B – Grindbrook silt loam, identified in the WSS as capable of producing 214 cubic feet or more of wood fiber per acre per year. Because the soil productivity is greater than 85 cubic feet of wood fiber per acre per year, Section 3.9190(3)(C) applies, requiring at least three dwellings and 11 other lots or parcels that existed on January 1, 1993, within a 160-acre square or rectangular template centered on the subject property.

The applicant has proposed to use a rectangular template, as provided in Section 3.9190(3)(F), which requires the 160-acre template to be one mile long and ¼-mile wide, centered on the center of the subject property and aligned with the road to the greatest extent possible. Exhibit 1 includes a map of the

applicant's proposed alignment, which, based on staff analysis, appears to show the correct dimensions for the template and is centered on the center of the subject property. Because the subject property is situated at the beginning of a >90-degree curve in Youngs River Road, with a very narrow frontage (approx. 120 feet) and long depth (approx. 1,930 feet), the applicant has aligned the template on a tangent to the curve. Considering the narrow, deep lot configuration, and the curvature of the road in the vicinity, the proposed alignment being on a tangent to the curve is appropriate because it aligns the 1-mile-long template with the general alignment of the road within 1/2-mile of the subject property in each direction. The proposed template placement and alignment satisfy Section 3.9190(3)(F).

Exhibit 1 also includes a table prepared by the applicant which lists the parcels and dwellings within the proposed template. According to the table, the template contains at least 12 lots or parcels in addition to the subject property that existed on January 1, 1993, as well as three dwellings that existed on January 1, 1993 and continue to exist. Staff confirmed this information with County Assessor information.

Based on this analysis, the proposal satisfies Section 3.9190(3)(C), (D), (E), and (F).

With regard to subsection (H), the proposed dwelling may be allowed because:

- (1) This staff report demonstrates the proposal satisfies all applicable requirements with conditions of approval as appropriate.
- (2) The proposal is evaluated against the requirements of Sections 3.9240 and 3.9250, below, finding the criteria are met or will be met through conditions of approval.
- (3) The subject property is not part of a tract. This criterion does not apply.
- (4) There are no dwellings currently sited on the subject property.

The proposal satisfies the criteria listed in Section 3.9190(3)(H).

Section 3.9230. Conditional Use Review Criteria

A use authorized in a forest zone by Sections 4.3400 and 4.3500 may be allowed provided the following requirements or their equivalent are met. These requirements are designed to make the use compatible with forest operations and agriculture and to conserve values found on forest lands.

- 1) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands.
- 2) The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.
- 3) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in OAR 660-006-0025 Subsection 5(c).
- 4) The proposed use will be compatible with vicinity uses, and satisfies all relevant requirements of this ordinance and the following general criteria:
 - (A) The use is consistent with those goals and policies of the Comprehensive Plan which apply to the proposed use;
 - (B) The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features;
 - (C) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zoning district;
 - (D) The proposed use is appropriate, considering the adequacy of public facilities and services existing or planned for the area affected by the use; and

- (E) The use is or can be made compatible with existing uses and other allowable uses in the area.

STAFF FINDINGS AND CONCLUSION: (1) The subject property is narrow and deep, approximately 4.6 acres, predominantly surrounded by land in the F-80 and AF Zones. According to the applicant's proposed site plan (Exhibit 1), the proposed dwelling would be sited approximately 110 feet from Youngs River Road and 30 feet from the side property lines. Based on the existing development pattern in the area (a mix of rural homesteads, farms and forestland), the proximity of development to the road, and compliance with Subsections 2, 3, and 4, below, the placement of the dwelling is not expected to force a significant change in, or significantly increase the cost of accepted farming or forest practices on surrounding land. Additionally, the proposal will be required to comply with Section 3.9240, Siting Standards for Dwellings and Structures, and Section 3.9250, Fire Protection Standards for Dwellings and Structures, both of which have been devised to mitigate potential impacts to forest uses on surrounding land. **This criterion is satisfied.**

(2) The subject property is located in the Olney-Walluski Fire and Rescue District. Condition #1F will require the applicant to submit an Agency Review & Approval Form, signed by the fire department, to confirm the department has the capacity to serve the proposed development. Condition #5 will require compliance with Section 3.9250, Fire Protection Standards for Dwellings and Structures, which is specific to forest zones. **Through compliance with development standards and conditions of approval, the proposed development is not anticipated to significantly increase fire hazard, fire suppression costs, or risks to fire suppression personnel. (See Conditions #1F and 5)**

(3) Condition #3 requires the landowner to sign and record a written statement in accordance with this section. **This criterion is satisfied with a condition of approval. (See Condition #3)**

(4) The criteria in this section are the same as those found in Section 2.4000 Conditional Use Review Criteria. The staff findings for Section 2.4000 demonstrate the proposed development will satisfy these criteria. **These criteria are satisfied or will be satisfied through conditions of approval.**

Section 3.9240. Siting Standards for Dwellings and Structures.

The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest zones. These criteria are designed to make such uses compatible with forest operations, to minimize wildfire hazards and risks and to conserve values found on forest lands. A governing body shall consider the criteria in this section together with the requirements of Section 3.9250 to identify the building site:

(1) Dwellings and structures shall be sited on the parcel so that:

- (A) They have the least impact on nearby or adjoining forest or agricultural lands;
- (B) The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
- (C) The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and
- (D) The risks associated with wildfire are minimized.

(2) Siting criteria satisfying subsection (1) of this section may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.

APPLICANT RESPONSE: The tentative site plan places the dwelling at the maximum distance possible from adjacent forest lands and in a location that is reasonably close to the road.

STAFF FINDINGS AND CONCLUSION: (1)(A) The subject property is narrow and deep, covering approximately 4.6 acres. According to the applicant's tentative site plan, the proposed dwelling would be sited near the front of the property, approximately 110 feet from Youngs River Road. The land surrounding the subject property is predominantly in forest and agricultural use with a development pattern that

includes small-acreage lots developed with single-family dwellings and accessory structures near the road frontage. Many of the homesites appear to include small woodlots and/or farm uses. Considering the proposal would be consistent with this development pattern, the proposed siting is not expected to have a significant impact on nearby or adjoining forest or agricultural lands. **This criterion is satisfied.**

(1)(B) As described in Subsection (1)(A), the subject property is narrow and deep, covering approximately 4.6 acres. The proposed dwelling would be sited approximately 110' from the front property line, with the septic drain field located between the dwelling and the road. According to the applicant, the remaining land would be used for forestry. The proposed siting ensures that any adverse impacts on farm and/or forest uses on the property will be minimized by clustering development near the road and leaving the remaining area available for those uses. **This criterion is satisfied.**

(1)(C) The amount of land used to site the dwelling and septic system would be approximately 0.5 acres. Access to the dwelling would be via an existing logging road through adjacent TL 600, with a new driveway branching off to serve the subject property. The developed area would be minimal and the new driveway is not expected to create an impediment to forest uses. **This criterion is satisfied.**

(1)(D) As described in greater detail, below, the proposed development will be required to satisfy the fire protection standards set forth in Section 3.9250. **A final site plan shall be required as part of the development permit application, ensuring the final configuration complies with the applicable fire protection standards to minimize wildfire risks. (Condition #1A and 5)**

The siting standards in Section 3.9240 are satisfied or will be satisfied through conditions of approval. (See Condition #1A and 5)

- (3) The applicant shall provide evidence to the County that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices rules (OAR Chapter 629). For purposes of this subsection, evidence of a domestic water supply means:
- (A) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or
 - (B) A water use permit issued by the Water Resources Department for the use described in the application; or
 - (C) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the County upon completion of the well.

STAFF FINDINGS AND CONCLUSION: The applicant has indicated water will be supplied via a rainwater catchment system. If a ground or surface water source is to be used in conjunction with or instead of a rainwater catchment system, the applicant shall provide evidence of an authorized domestic water right in accordance with this section (Condition #1E). **This criterion will be satisfied with a condition of approval. (Condition #1E)**

- (4) As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the U.S. Bureau of Land Management, or the U.S. Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

STAFF FINDINGS AND CONCLUSION: The applicant has proposed to access the property via an existing logging road through TL 600 to the south, which is owned by a private party. The applicant shall provide

proof of an access easement in accordance with this section (Condition #1D). **This criterion will be satisfied with a condition of approval. (Condition #1D)**

- (5) Approval of a dwelling shall be subject to the following requirements:
- (A) Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules.
"Tract" means one or more contiguous lots or parcels in the same ownership.
 - (B) The Community Development Department shall notify the County Assessor of the above condition at the time the dwelling is approved.
 - (D) The county governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.383 or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. A governing body shall consider the criteria in this section together with the requirements of Section 3.9250 to identify the building site.

APPLICANT RESPONSE: The applicant shall ensure that the property is stocked to comply with current Department of Forestry requirements.

STAFF FINDINGS AND CONCLUSION: Pursuant to Subsection (5)(A), the applicant is required to demonstrate the property will meet Oregon Department of Forestry (ODF) stocking requirements. A stocking report shall be provided to the Planning Division prior to issuance of a development permit (Condition #4).

Subsection (5)(D) will be satisfied by Condition #3, which requires signing and recording of a "good neighbor clause," a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for injury from farming or forest practices for which no claim is allowed under ORS 30.936 or 30.937, and a "Resource Zone Disclosure Statement" acknowledging the activities on adjacent resource lands would not conflict with the use of the property as a dwelling.

This section will be satisfied through conditions of approval. (See Conditions #3 and 4)

Section 3.9250. Fire Protection Standards for Dwellings and Structures.

The following fire-siting standards or their equivalent shall apply to all new dwelling or structures in a forest zone:

- (1) The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. (Remainder of section inapplicable.)

APPLICANT RESPONSE: The subject parcel is within the Olney-Walluski Fire Protection District.

- (2) Road access to the dwelling shall meet road design standards described in OAR 660-006-0040.

APPLICANT RESPONSE: This OAR statute states that, "The governing body shall establish road design standards...which ensure that public roads, bridges, private roads and driveways are constructed so as to provide adequate access for fire fighting equipment." The proposed driveway will be developed from an existing forest road on an adjacent parcel owned by the applicant's son, who has approved the use. The approach for the existing forest road is in a much safer location since it has a longer sight distance. Both the existing forest road and the proposed driveway extension will provide adequate access for fire apparatus, subject to the approval of the Olney-Walluski Fire Chief.

- (3) The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, published by the Oregon Department of Forestry; and shall also demonstrate compliance with Table 3.1.

APPLICANT RESPONSE: The owners shall maintain primary and secondary fuel-free break areas in compliance with Table 3.1 and ODF standards.

- (4) The dwelling shall have a fire retardant roof.

APPLICANT RESPONSE: The dwelling will have a fire-retardant roof.

- (5) The dwelling shall not be sited on a slope of greater than 40 percent.

APPLICANT RESPONSE: The subject property does not contain any slopes greater than 40 percent.

- (6) If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

APPLICANT RESPONSE: Each chimney in the dwelling will be fitted with a spark arrester.

STAFF FINDINGS AND CONCLUSION: (1) The subject property is in the Olney-Walluski Fire and Rescue District. Condition #1F requires submittal of a completed Agency Review & Approval Form, which will confirm the fire department is able to serve the proposed development. **This criterion will be satisfied with a condition of approval. (See Condition #1F)**

(2) OAR 660-006-0040 requires local jurisdictions to establish road design standards for private roads and driveways to provide adequate access for firefighting equipment. The standards are required to "address maximum grade, road width, turning radius, road surface, bridge design, culverts, and road access taking into account seasonal weather conditions." Clatsop County's road design and construction standards for private roads and driveways are found in Section 3.9800. The applicant has proposed to access the subject property via an existing logging road and new driveway through an adjacent parcel (TL 600) to the south. Condition #1D will require the applicant to demonstrate the access road meets the requirements of Section 3.9800. **This criterion will be satisfied with a condition of approval. (See Condition #1D)**

(3)-(6) The applicant's responses (see above and Exhibit 1) indicate the proposal will satisfy these criteria. The applicant will be required to demonstrate the final design complies with these criteria prior to issuance of a development permit (Condition #5). **The criteria set forth in Subsections (3)-(6) will be satisfied with a condition of approval. (See Condition #5)**

Table 3.1. Minimum Primary Safety Zone.

Slope	Feet of Primary Safety Zone	Feet of Additional Primary Safety Zone Down Slope
0%	30	0
10%	30	50
20%	30	75
25%	30	100
40%	30	150

STAFF FINDINGS AND CONCLUSION: Based on Clatsop County Webmaps data and Google Earth imagery, the subject property slopes gently upward from Youngs River Road. A condition of approval will require the applicant's final site plan to indicate the slopes surrounding the dwelling site and depict the required safety zone boundary (Condition #1A). **This criterion will be satisfied with a condition of approval. (See Condition of Approval #1A)**

SECTION 3.9500. VEHICLE ACCESS CONTROL AND CIRCULATION

Section 3.9530. Clear Vision Area

Section 3.9540. Access Control Standards

8) Number of Access Points. For single-family (detached and attached), two-family, and three-family housing types, one street access point is permitted per lot, when alley access cannot otherwise be provided; 10) Street Connectivity and Formation of Blocks Required. In order to promote efficient vehicular and pedestrian circulation throughout the county, land divisions and large site developments, as determined by the Community Development Director, shall produce complete blocks bounded by a connecting network of public and/or private streets, in accordance with the following standards:

(C) Driveway Openings. Driveway openings or curb cuts shall be the minimum width necessary to provide the required number of vehicle travel lanes (12 feet for each travel lane). The following standards (i.e., as measured where the front property line meets the sidewalk or right-of-way) are required to provide adequate site access, minimize surface water runoff, and avoid conflicts between vehicles and pedestrians:

1. Single family, two-family, and three-family uses shall have a minimum driveway width of 10 feet, and a maximum width of 24 feet.

STAFF FINDING AND CONCLUSION: According to the applicant's site plan (Exhibit 1), access to the proposed dwelling would be via an existing logging road through adjacent TL 600, with a new driveway to the proposed homesite approximately 400 feet in length. The existing logging road is connected to Youngs River Road, a County road. The applicant or property owner shall provide the Planning Division with a copy of an approved road approach permit from Clatsop County Public Works and documentation of an ingress-egress easement through TL 600, prior to issuance of a development permit. **This section will be satisfied with a condition of approval. (See Condition #1D)**

Section 5.3000. Geologic Hazards Overlay District (/GHO)

Section 5.3010. Applicability

This section applies to all development in the following potentially hazardous areas:

- 1) Areas subject to mass wasting including:
 - (A) Active landslides, inactive landslides, landslide topography and mass movement topography identified in the Oregon Department of Geology and Mineral Industries (DOGAMI) Bulletins 74 and 79;

STAFF FINDINGS AND CONCLUSION: Clatsop County Webmaps indicates the entire property is within the GHO, with landslide topography subject to mass wasting per Section 5.3010(1)(A). The applicant is advised that all development within the GHO is subject to the requirements in Section 5.3000 and requires a geologic hazard permit. **This section will be satisfied with a condition of approval. (See Condition #2)**

B. COMPREHENSIVE PLAN GOALS AND POLICIES

Goal 1 – Citizen Involvement

7. Clatsop County shall use the news media, mailings, meetings, and other locally available means to communicate planning information to citizens and governmental agencies. Prior to public hearings regarding major plan revisions, notices shall be publicized.

8. Clatsop County shall establish and maintain effective means of communication between decision-makers and those citizens involved in the planning process. The County shall ensure that ideas and recommendations submitted during the planning process will be evaluated, synthesized, quantified, and utilized as appropriate.
9. Public notices will also be sent to affected residents concerning zone and comprehensive plan changes, conditional uses, subdivisions and planned developments.

STAFF FINDINGS AND CONCLUSION: Notice of the application was mailed to property owners within 750 feet of the subject property in accordance with the requirements of Section 2.2040 (see Exhibit 2). Comments received during the 10-day public comment period are summarized in Section III of this report. The Type II conditional use review procedure has been conducted in accordance with the applicable Goal 1 policies (see Exhibit 2). **The Type II review procedure used to process this application satisfies Goal 1.**

Goal 2 – Land Use Planning

The County's land and water have been placed in one of six (6) Plan designations including: 1. Development; 2. Rural Agricultural Lands; 3. Conservation Forest Lands; 4. Conservation Other Resources; 5. Natural; and 6. Rural Lands.

3. Conservation Forest Lands

Forestlands are those lands that are to be retained for the production of wood fiber and other forest uses.

STAFF FINDINGS AND CONCLUSION: The subject property is in the AF Zone, which is under the "Conservation Forest Lands" Comprehensive Plan designation. As described in Section IIA of this report, a single-family dwelling subject to the "template test" can be permitted in the AF Zone subject to applicable review criteria and development standards. Permitted uses in any zone have been determined to be generally compatible with the Comprehensive Plan. This staff report evaluates the proposal against the applicable review criteria and applies conditions of approval as appropriate to satisfy Conservation Forest Lands policies. **The proposal is consistent with Goal 2.**

Goal 4 - Forest Lands

To conserve forest lands for forest uses.

Policies

1. Forest lands shall be conserved for forest uses, including the production of trees and the processing of forest products, open space, buffers from noise, visual separation from conflicting uses, watershed protection, wildlife and fisheries habitat, soils protection from wind and water, maintenance of clean air and water, outdoor recreational activities compatible with these uses, and grazing land for livestock.

5. The clustering of non-forest residences on forestlands may be permitted in the AF-20 and F-38 zones, subject to non-forest use siting standards. This non-forest development is permitted conditionally because, properly designed and sited, it does not result in the loss of forest lands nor does it diminish or interfere with forest uses.

STAFF FINDINGS AND CONCLUSION: The AF-20 and F-38 zones were eliminated in 1997, when the minimum lot size of resource zones increased to 80 acres and the AF-20 and F-38 zones were converted to the AF and F-80 zones. Policy 5, however, was not updated at the time to reflect the new zone name. Regardless, the policy currently is understood to apply to today's AF Zone when the use of the land is predominantly forestry, as is the case with this application. Analysis and findings earlier in this report demonstrate the proposal complies with Policies 1 and 5: dwellings can be permitted in the AF Zone and the proposal meets or will meet all applicable criteria with appropriate conditions of approval. Therefore, the proposed development of a dwelling is not anticipated to diminish or interfere with forest uses on the

remainder of the subject property or on surrounding forestland. **Compliance with applicable development standards and conditions of approval will ensure the use does not conflict with Goal 4.**

Goal 6 – Air, Water, and Land Resources Quality

To maintain and improve the quality of air, water, and land resources of the state.

13. Any development of land, or change in designation of use of land, shall not occur until it is assured that such change or development complies with applicable state and federal environmental standards.

STAFF FINDINGS AND CONCLUSION: County regulations require the applicant to provide the Planning Division with copies of any required state and/or federal permits for the proposed use prior to issuance of a development permit (Regulation #1). The LAWDUC includes development standards to protect land and water quality, such as appropriate erosion control. Per Condition of Approval #1G, an erosion control plan commensurate with Section 3.2000 shall be submitted with the development permit application. **Goal 6 will be satisfied through a condition of approval and a County regulation. (See Condition #1G and Regulation #1).**

Goal 7 – Areas Subject to Natural Hazards and Disasters

To protect life and property from natural disasters and hazards.

STAFF FINDINGS AND CONCLUSION: As discussed earlier in this report, Clatsop County Webmaps indicates the entire subject property is within the Geologic Hazards Overlay District (GHO). The GHO implements Goal 7 policies related to geologic hazards. Any development activities within the GHO will be subject to a geologic hazard permit and required to comply with the applicable requirements of the LAWDUC (Condition #2). **Goal 7 will be satisfied through a condition of approval. (See Condition #2)**

Goal 11 - Public Facilities and Services

Public Facilities Goals

4. **Conservation Forest Lands** - The primary purpose of this Plan designation is to conserve lands for commercial timber production. Residences are generally in conjunction with a forest use; however, in many areas with this zoning designation residences on substandard parcels are common. Community water systems are often present in these instances. As with agricultural lands, the parcel size and use are controlled by the zoning existing. Therefore it is appropriate to extend community water to residences. The large minimum parcel sizes and distances of lines will limit extensions, and the Plan designation removes the ability to develop land just for residential purposes. The primary function of Conservation Forest Lands is forest use. Any extension of public water will occur only to support a development in conjunction with a resource use and will not be the basis for future conversion to non-resource use.

Public fire protection may be present here, and is appropriate since so many residences currently exist, but is not necessary for development and is not encouraged in sparsely settled forest areas.

Community sewage systems are not appropriate in this Plan designation.

STAFF FINDINGS AND CONCLUSION: The subject property is served by the Olney-Walluski Fire and Rescue District. The applicant has indicated water would be provided via a rainwater catchment system and sewage would be disposed in an onsite septic system. No extensions of community water or sewer systems have been proposed. Conditions of Approval #1E and 1F will require a completed Agency Review & Approval Form and documentation that the rainwater catchment system meets the requirements of Section 3.0040, LAWDUC, prior to issuance of a development permit, which will provide final confirmation that all appropriate services are available to serve the proposed dwelling. **Goal 11 will be satisfied with conditions of approval. (See Conditions #1E and 1F)**

Lewis & Clark, Olney-Walluski Community Plan

Coast Range Foothills Policy

The predominant land use of this landscape unit should be forestry and acreage home sites. This is due to the generally poor foundation characteristics and of severe septic tank limitations of soils in this landscape unit.

STAFF FINDINGS AND CONCLUSION: The proposed single-family dwelling on approx. 4.6 acres, sited near the front of the lot with the remaining area managed for forestry, is consistent with the development pattern described in the Coast Range Foothills Policy, above. **The proposed development is consistent with the Lewis & Clark, Olney-Wallooskee Community Plan.**

III. COMMENTS RECEIVED

Clatsop County Public Health: Annette Brodigan, permit technician for the Onsite Septic program, said there were no records of a septic site evaluation for the subject property and that the applicant will be required to apply for the site evaluation report with Clatsop County Public Health prior to development.

STAFF RESPONSE: Condition #1F will require the applicant to provide a completed Agency Review and Approval Form, including a signature from the Onsite Septic program, prior to issuance of a development permit for the proposed dwelling.

IV. CONCLUSION AND DECISION

Based on the application materials received staff finds that the criteria relevant to this request have been met, or can be met through conditions of approval. The application is hereby **APPROVED, SUBJECT TO THE FOLLOWING CONDITIONS OF APPROVAL:**

1. Prior to construction, the applicant shall obtain a Type I Development Permit from the Planning Division and all appropriate building permits from the Building Codes Division. The Development Permit application shall include the following items:
 - a. A final site plan commensurate with LAWDUC Section 4.3400 (AF Zone development standards) and Section 3.9250 (Fire Protection Standards for Dwellings and Structures);
 - b. An outdoor lighting plan commensurate with Ordinance 20-02;
 - c. Grading, Drainage and Erosion Control Plan Review application for the proposed driveway access;
 - d. Road approach approval from Clatsop County Public Works; documentation the access road meets applicable standards in Section 3.9800; and proof of an easement for ingress and egress through TL 600;
 - e. Verification of an adequate year-round supply of potable water in accordance with Section 3.0040 and Section 3.9240(3).
 - f. A completed Agency Review & Approval Form;
 - g. An erosion control plan commensurate with Section 3.2000 Erosion Control Development Standards;
2. All development within the Geologic Hazards Overlay District (GHO) shall be subject to the requirements of Section 5.3000 and approval of a geologic hazard permit prior to issuance of a development permit.

3. The landowner for the parcel shall sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. In addition, the **"Resource Zone Disclosure Statement"** and **"Good Neighbor Clause"** shall be recorded on the deed of the subject parcel with the County Clerk's Office. Community Development shall be provided with a copy of the recorded document prior to the issuance of the development permit for the dwelling.
4. A sufficient number of trees shall be planted on the property in accordance with Oregon Department of Forestry (ODF) stocking requirements. The applicant/owner shall provide the Land Use Planning Division documentation that the property satisfies the ODF requirements.
5. All development shall comply with the following fire protection standards:
 - a. The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the structures that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, published by the Oregon Department of Forestry; and shall also demonstrate compliance with Table 3.1.
 - b. All structures shall have a fire-retardant roof.
 - c. Structures shall not be sited on a slope of greater than 40 percent.
 - d. If the structure has a chimney or chimneys, each chimney shall have a spark arrester.

Other regulations also apply, including, but not limited to, the following:

1. Development shall comply with all applicable state, federal and local laws and regulations. Copies of all required state and/or federal permits shall be provided to the Planning Division.
2. This conditional use dwelling permit is valid for a period of four (4) years from the date of approval. This authorization is void after four (4) years from the date of approval unless substantial construction has begun per Section 1.0500. The Community Development Director has the discretion to authorize extension of this approval for an additional two (2) years upon request, provided the request is submitted in writing at least 10 days before and no more than 30 days prior to expiration of the permit.

EXHIBIT 1

Application Materials



Clatsop County
Community Development
800 Exchange Street, Suite 100
Astoria, Oregon 97103
Phone 503 325-8611 Fax 503 338-3606
comdev@co.clatsop.or.us www.co.clatsop.or.us

#7221
22-000253

Conditional Use Permit

Fee: Type II \$658 Type Ila-III: \$919

(Double if a violation exists)

Owner: Angela Beck

Email: angelabeck24@gmail.com

Mail Address: 46692 Old 77 Vesper Ln

City/State/Zip: Birkenfeld, OR 97016

Phone: 503-440-1038

Phone: 503-755-0211

Owner's contact:

Email:

Mail Address:

City/State/Zip:

Phone:

Phone:

Applicant: Owner as listed above

Email:

Mail Address:

City/State/Zip:

Phone:

Phone:

Property Address: No physical address. Property is Tract 3 described in a revision of LOR #21-000716 dated January 11, 2022, located in the SW ¼ Section 14, T7N R9W.

Proposed Use: Per LAWDUC Section 4.3440(14)(C): "Section 4.3440. Conditional Development and Use.

(14) The following residences may be approved on land that was predominantly in forest use on January 1, 1993:

(C) A single family dwelling may be allowed subject to the "template test" described in Section 3.9150, and subject to the approval criteria and conditions in Section 3.9120, S6.000 and 3.9150. [These citations are not accurate since LWDUC and the Standards Document were consolidated and renumbered in LAWDUC, please see notes in Supplement.]

Comprehensive Plan Designation: Conservation Forest Lands

Existing Zoning: AF & F-80 [Please see notes in Supplement.] Overlay District: GHO, NWI

Property Description: Township 7 North Range 9 West Section 14 Formerly part of Tax Lot 600.

Directions to the property from Astoria: From Miles Crossing, south on Youngs River Road to approximately 1.75 miles past Youngs River Falls. Property is on east side of the road approximately 0.10 mile before the road turns to the northeast.

What is the nearest "Community" (i.e. Svensen, Arch Cape, Westport)? Astoria

General description of the property:

Existing Use: Forest land

Topography: Low-rise hills

Proposed Development: Single-family dwelling

General description of adjoin property:

Existing Use: North: forest land; South: forest land; East: forest land; West: Road and farm land.

Topography: minor relief, low-rise hills; flat land to the west

Attach a site plan of the property showing lot dimensions, sizes, and location of all existing and proposed structures setbacks of existing and proposed structures to all property lines, access to the site, parking area layout that includes the

space sizes and location and the width of any parking aisles. Also, identify the location of any stream, wetland, lake or other resource on or adjacent to the property.

SIGNATURES: All owners of record, per Clatsop County Assessment records, must sign the application. Representatives of public agencies, corporations, trusts, etc. must provide documentation of signing authority. The information contained in this application is in all respects true, complete and correct to the best of my knowledge.

Signature

Signature

Date:

Date:

The following sections are from the Clatsop County Land and Water Development and Use Ordinance #80-14.

Section 5.000 Conditional Development and Use.

Section 5.005 General. Although each zoning district is primarily intended for a predominate type of use and development, there are a number of uses which may or may not be appropriate in a particular district depending upon all the circumstances of the individual case. For example, the location, nature of the proposed use, character of the surrounding development, traffic capacities of adjacent streets, and potential environmental effects, all may indicate that the circumstances of the development and use needs to be individually reviewed. It is the intent of this section to provide a system of review of such uses so that the community is assured that the uses are compatible with their locations and with surrounding land uses, and will further the purpose of this ordinance and the objectives of the comprehensive plan.

Section 5.010. Application for a Conditional Development and Use. If a development and use is classified as conditional in a zone, it is subject to approval under Sections 5.00 to 5.030. An applicant for a proposed conditional development and use shall provide facts and evidence and a site plan in compliance with Section 5.300 sufficient to enable the Community Development Director or hearing body to make a determination.

Section 5.015. Authorization of a Conditional Development and Use.

- (1) A new, enlarged or otherwise altered development classified by this Ordinance as a conditional development and use may be approved by the Community Development Director under a Type II procedure except that the following conditional developments and uses may be approved by the Hearings Officer under a Type IIa procedure:
 - (A) Dog kennel or Kennel;
 - (B) Airport;
 - (C) Bed & Breakfast over 3 units;
 - (D) Golf courses;
 - (E) Automobile service station or repair shop, including body work, used car sales, wrecking yard;
 - (F) Public or private recreation such as riding stable, fishing or boating docks or ramps, gun club, golf course, or resort type establishment in association with recreation;
 - (G) Non-farm partition;
 - (H) Non-farm dwelling;
 - (I) Farm help relative dwelling;
 - (J) Home occupations related to auto/machinery repair or painting;
 - (K) Firearms training facility;
 - (L) Solid waste disposal site;
 - (M) Small scale, light industrial developments such as assembly, fabricating, processing, compounding, packing and similar operations within an enclosed building;
 - (N) Automobile wrecking yard;
 - (O) Amusement enterprises such as games of skill and science, thrill rides, penny arcades, and shooting galleries.

Please address the following standards on a separate sheet of paper. Be as specific as possible. "Yes" and "No" responses are not sufficient.

- (2) In addition to the other applicable standards of this ordinance, the hearing body must determine that the development will comply with the following criteria to approve a conditional development and use.
- (A) The proposed use does not conflict with any provision, goal, or policy of the Comprehensive Plan.
 - (B) The proposed use meets the requirements and standards of the Clatsop County Land and Water Development and Use Ordinance (Ordinance 80-14)
 - (C) The site under consideration is suitable for the proposed use considering:
 - 1) The size, design, and operating characteristics of the use, including but not limited to off-street parking, fencing/buffering, lighting, signage, and building location.
 - 2) The adequacy of transportation access to the site, including street capacity and ingress and egress to adjoining streets.
 - 3) The adequacy of public facilities and services necessary to serve the use.
 - 4) The natural and physical features of the site such as topography, natural hazards, natural resource values, and other features.
 - (D) The proposed use is compatible with existing and projected uses on surrounding lands, considering the factors in (C) above.
 - (E) The proposed use will not interfere with normal use of coastal shorelands.
 - (F) The proposed use will cause no unreasonably adverse effects to aquatic or coastal shoreland areas and;
 - (G) The use is consistent with the maintenance of peripheral and major big game habitat on lands identified in the Comprehensive Plan as Agricultural Lands or Conservation Forest Lands. In making this determination, consideration shall be given to the cumulative effects of the proposed action and other development in the area on big game habitat.
- (3) In addition to compliance with the criteria as determined by the hearing body and with the requirements of Sections 1.040 and 1.050, the applicant must accept those conditions listed in Section 5.025 that the hearing body finds are appropriate to obtain compliance with the criteria.

Section 5.025 Requirements for Conditional Development and Use. In permitting a conditional development and use, the hearing body may impose any of the following conditions as provided by Section 5.015:

- (1) Limit the manner in which the use is conducted, including restricting the time an activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
- (2) Establish a special yard or other open space or lot area or dimension.
- (3) Limit the height, size or location of a building or other structure.
- (4) Designate the size, number, location or nature of vehicle access points.
- (5) Increase the amount of street dedication, roadway width or improvements within the street right-of-way.
- (6) Designate the size, location, screening, drainage, surfacing or other improvement of a parking or truck loading areas.
- (7) Limit or otherwise designate the number, size, location, height or lighting of signs.
- (8) Limit the location and intensity of outdoor lighting or require its shielding.
- (9) Require diking, screening, landscaping or another facility to protect adjacent or nearby property and designate standards for installation or maintenance of the facility.
- (10) Designate the size, height, location or materials for a fence.
- (11) Require the protection of existing trees, vegetation, water resources, wildlife habitat or other significant natural resources.
- (12) Require provisions for public access (physical and visual) to natural, scenic and recreational resources.
- (13) Specify other conditions to permit the development of the County in conformity with the intent and purpose of the classification of development.

Section 5.030. Time Limit of Permit for Conditional Use. Authorization of a conditional use shall be void after two years unless substantial construction or action pursuant thereto has taken place (as per Section S2.011). However, the County may, at the discretion of the Community Development Director, extend authorization for an additional one year upon request, provided such request is submitted in writing at least 10 days and not more than 30 days prior to expiration of the permit. The County may grant conditional use approvals for activities such as dike maintenance for a period of time up to five years; such approvals will normally correspond with parallel state and/or federal permits.

(A) The proposed use does not conflict with any provision, goal, or policy of the Comprehensive Plan.

The proposed use complies with Policy 1 of the Comprehensive Plan, to conserve forest lands for forest uses. Since the development code (LAWDUC) implements the Comprehensive Plan, a single-family dwelling subject to the template test in LAWDUC 4.3440(14)(C) is a conditional use in the forest lands and is therefore accessory to a forest use. Moreover, the dwelling will be occupied by the forest landowner, which will facilitate management and oversight of the resource.

(B) The proposed use meets the requirements and standards of the Clatsop County Land and Water Development and Use Ordinance (Ordinance 20-03).

The proposed use will meet the use standards in what is now LAWDUC under Ordinance 21-05, including compliance the following provisions:

Section 4.3460 Development and Use Standards

(3) Setbacks for buildings: (A) Front yard: 30 feet. (B) Side and rear yard: 20 feet.

The tentative site plan shows a ±110 ft. front yard setback, ±30 ft. side yard and ±1,750 ft. rear yard.

(4) Maximum building height: 45 feet.

The modest-sized dwelling will not exceed 45 feet.

(7) Uses in this zone which are in either a Major or Peripheral Big Game Range, as shown on the map in the County's Comprehensive Plan, are subject to the standards in Section 3.9170.

See Response "G".

Section 3.0040. Water Improvement Standards

A year-round supply of at least 250 gallons of water per day by one of the following sources:

Source	Standard	Proof
Rainwater Catchment System	Oregon Building Codes	Design approved by Clatsop County Building Codes

The applicant intends to establish a rainwater catchment system, subject to the approval of Building Codes.

Section 3.9080 General Standards

2) Single-family dwelling deeds. The landowner shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

Following approval of the Template Test, the applicant shall record such instrument in the deed records.

Section 3.9190. Residential Uses

3) A single family "template" dwelling authorized under ORS 215.750 on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

(C) Capable of producing more than 85 cubic feet per acre per year of wood fiber if: 1. All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and 2. At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.

(F) Except as provided by paragraph (G), if the subject tract abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160 acre rectangle that is one mile long and 1/4 mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.

The subject property is capable of producing more than 85 cubic feet per acre of wood fiber, and the spreadsheet submitted previously lists the required 11 other parcels and three dwellings that comply with subsection (C).

Since the subject property abuts Youngs River Road, the applicant previously submitted a 160-acre rectangle map that aligns with the road and depicts the requisite portions of parcels and dwellings.

Section 3.9230. Conditional Use Review Criteria

3) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner that recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in OAR 660-006-0025 Subsection 5(c).

The instrument noted under Response “B” following Section 3.9080 will include such a written statement.

Section 3.9240. Siting Standards for Dwellings and Structures

1) Dwellings and structures shall be sited on the parcel so that: (A) They have the least impact on nearby or adjoining forest or agricultural lands; (B) The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized; (C) The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and (D) The risks associated with wildfire are minimized.

2) Siting criteria satisfying Subsection 1) may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.

The tentative site plan places the dwelling at the maximum distance possible from adjacent forest lands and in a location that is reasonably close to the road.

5) Approval of a dwelling shall be subject to the following requirements: (A) Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in department of Forestry administrative rules;

The applicant shall ensure that the property is stocked to comply with current Department of Forestry requirements.

Section 3.9250. Fire Protection Standards for Dwellings and Structures

1) The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district.

The subject parcel is within the Olney -Walluski Fire Protection District.

2) Road access to the dwelling shall meet road design standards described in OAR 660-006-0040.

This OAR statute states that, “The governing body shall establish road design standards...which ensure that public roads, bridges, private roads and driveways are constructed so as to provide adequate access for fire fighting equipment.” The proposed driveway will be developed from an existing forest road on an adjacent parcel owned by the applicant’s son, who has approved the use. The approach for the existing forest road is in a much safer location since it has a longer sight

distance. Both the existing forest road and the proposed driveway extension will provide adequate access for fire apparatus, subject to the approval of the Olney-Walluski Fire Chief.

3) *The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the dwelling that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, published by the Oregon Department of Forestry; and shall also demonstrate compliance with Table 3.1.*

Slope	Feet of Primary Safety Zone	Feet of Additional Primary Safety Zone Down Slope
0%	30	0
10%	30	50

The owners shall maintain primary and secondary fuel-free break areas in compliance with Table 3.1 and ODF standards.

4) *The dwelling shall have a fire-retardant roof.*

The dwelling will have a fire-retardant roof.

5) *The dwelling shall not be sited on a slope of greater than 40 percent.*

The subject property does not contain any slopes greater than 40 percent.

6) *If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.*

Each chimney in the dwelling will be fitted with a spark arrester.

(C) The site under consideration is suitable for the proposed use considering:

1) *The size, design, and operating characteristics of the use, including but not limited to off-street parking, fencing/buffering, lighting, signage, and building location.*

The subsequent development site will be developed in compliance with these and other development standards as necessary and appropriate.

2) *The adequacy of transportation access to the site, including street capacity and ingress and egress to adjoining streets.*

The frontage of the subject parcel on Youngs River Road ensures that adequate access to the site can be provided, although the tentative site plan proposes a driveway that extends from an existing forest road as described under Response "B" Section 3.9250. The proposed vehicular access site will be subject to the approval of a Public Works Department road approach permit.

3) *The adequacy of public facilities and services necessary to serve the use.*

Public facilities and services are adequate for the numerous homes developed in this area, yet the applicant will obtain sign-offs for the proposed new dwelling from the respective responsible agencies.

4) *The natural and physical features of the site such as topography, natural hazards, natural resource values, and other features.*

The topography of the subject property and area is generally suitable for the small-scale structures and infrastructure associated with single-family dwellings. The subject property is within the Geological Hazard Overlay, but development will either be located in an area

that does not include the hazards generally identified in the GHO, or the site will be developed subject to obtaining and complying with a GHO permit and its recommendations.

(D) The proposed use is compatible with existing and projected uses on surrounding lands, considering the factors in (C) above.

Existing uses on surrounding lands are a mix of farm and forest uses, including portions of at least three dwellings within the one-mile-long template test rectangle aligned with the road. Moreover, there are four other dwellings established prior to 1/1/1993 that are outside of the template but are on parcels that have a portion within the template. The proposed single-family dwelling will follow the same established development model of dispersed rural residences on resource-land parcels.

(E) The proposed use will not interfere with normal use of coastal shorelands.

The subject property does not include coastal shorelands.

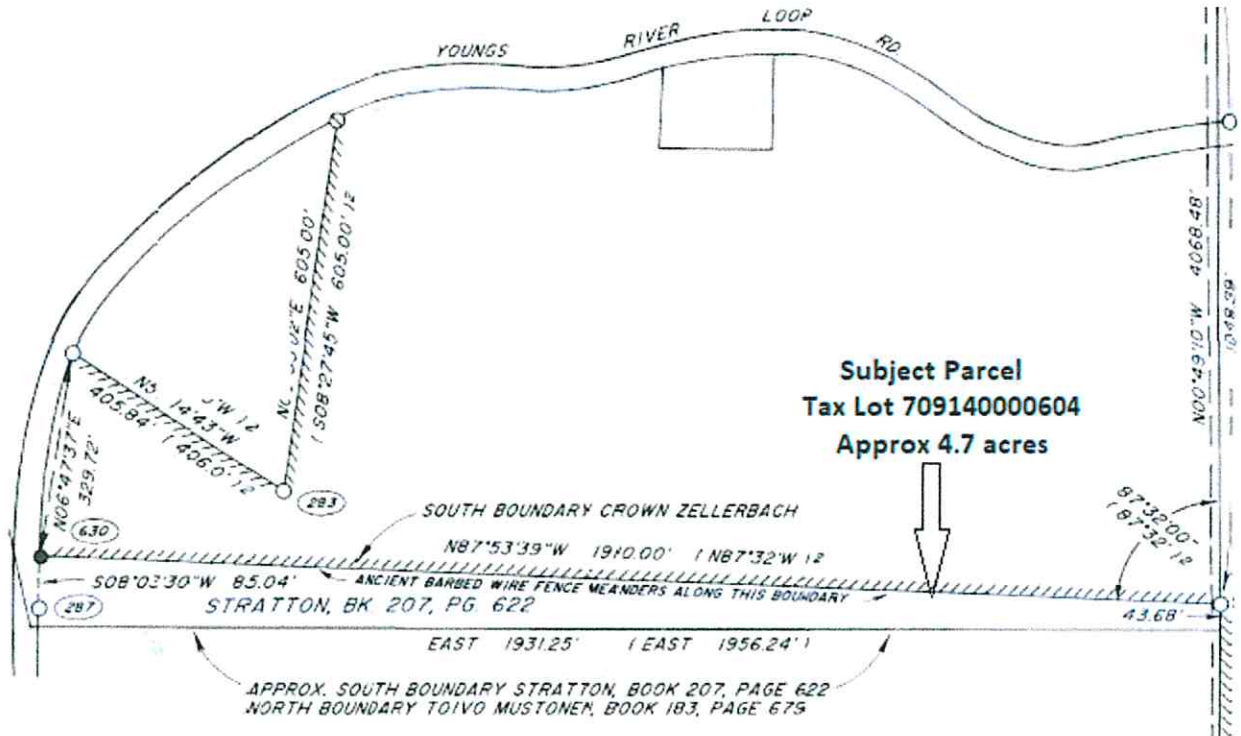
(F) The proposed use will cause no unreasonably adverse effects to aquatic or coastal shoreland areas and;

The subject property does not include aquatic or coastal shorelands and does not have the potential to adversely affect said lands.

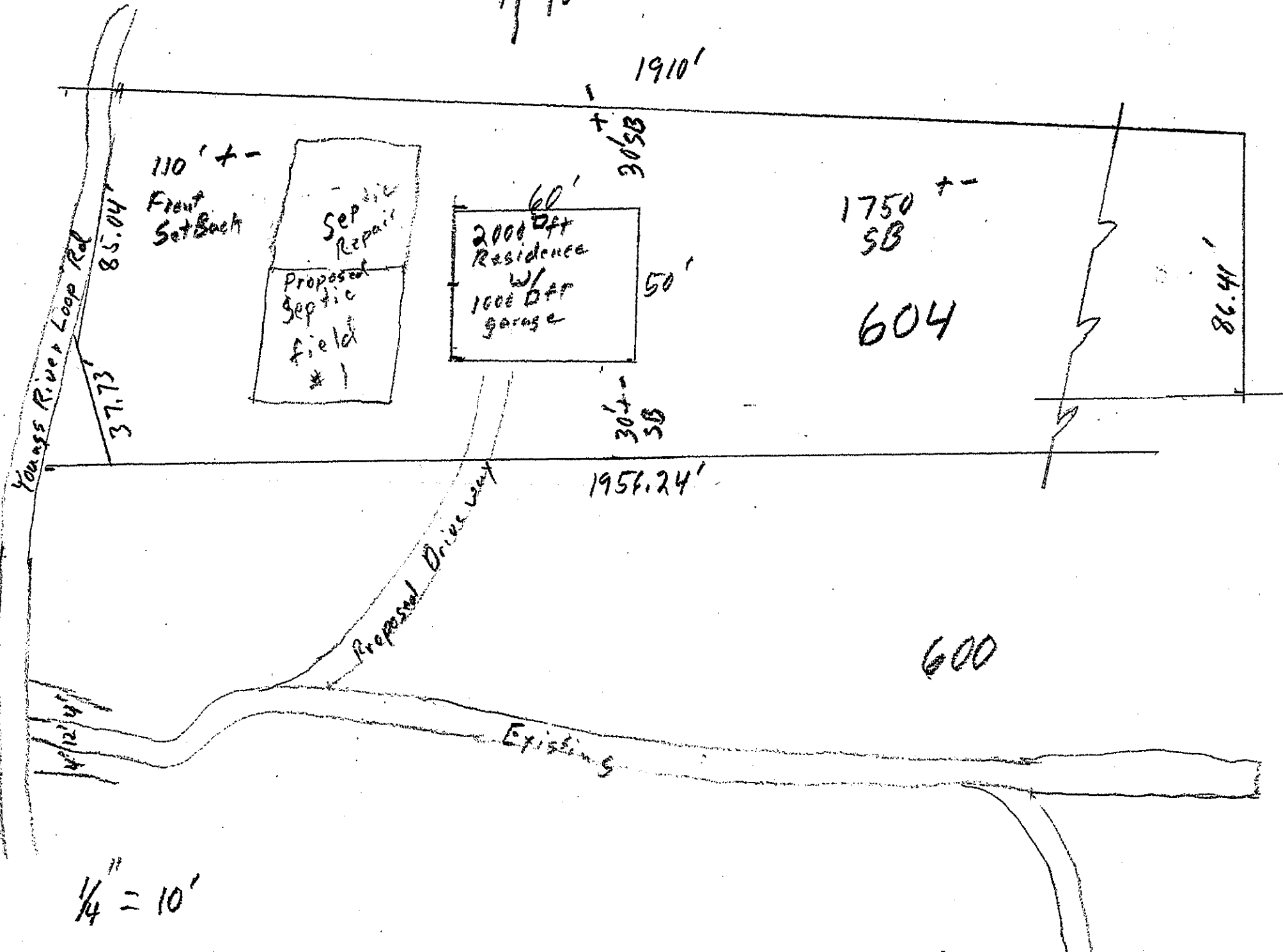
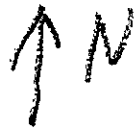
(G) The use is consistent with the maintenance of peripheral and major big game habitat on lands identified in the Comprehensive Plan as Agricultural Lands or Conservation Forest Lands. In making this determination, consideration shall be given to the cumulative effects of the proposed action and other development in the area on big game habitat.

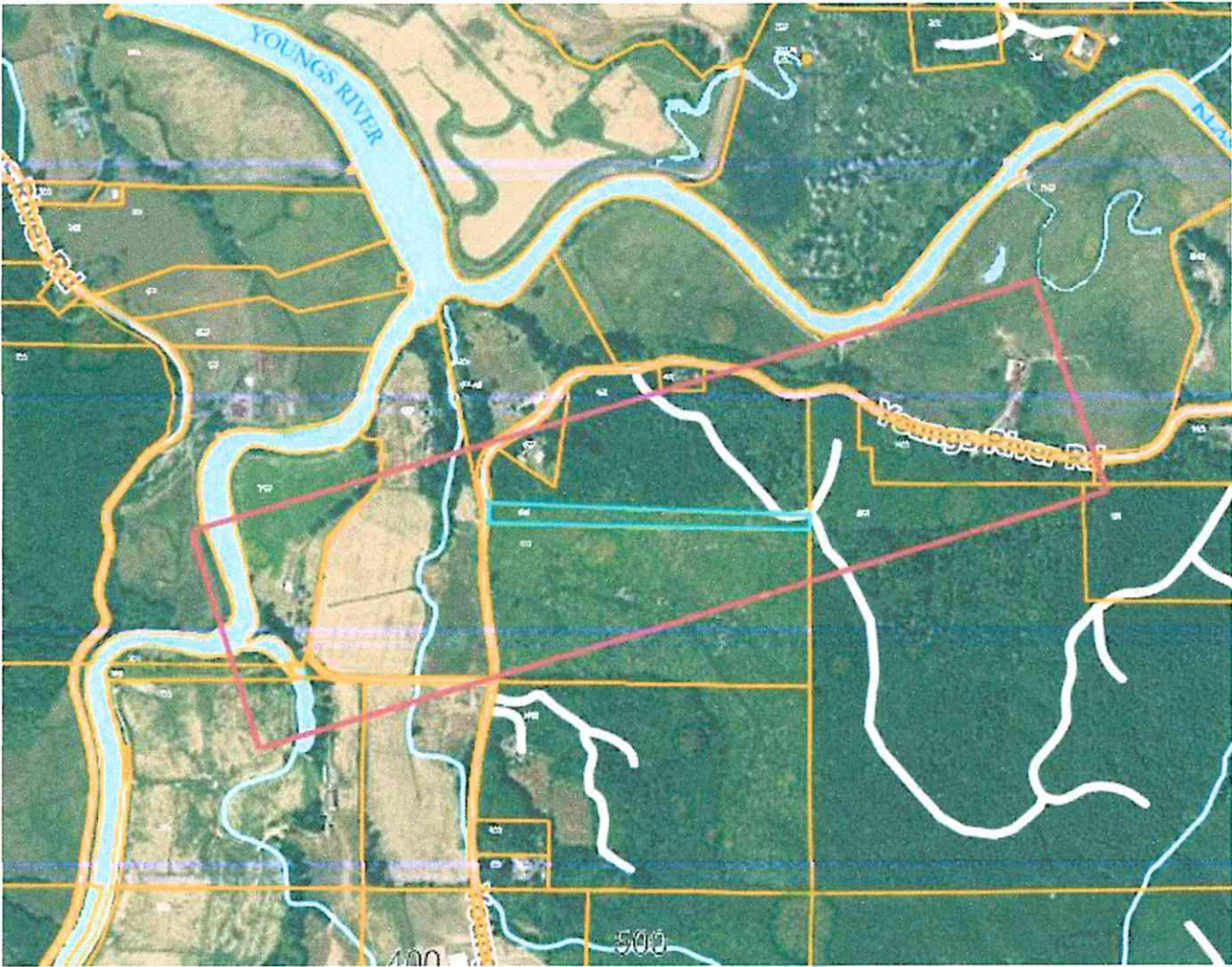
The subject property is not within the mapped peripheral or major big game habitat areas.

Beck Template Test Site Plan



- The subject parcel is managed forest land and does not contain any structures, streams, wetlands, or other resources.
- Access will be developed pending approval of the template test dwelling.





Beck Template Test Map "A" Parcel List									
Starting at NE template corner and proceeding clockwise:									
Account	Tax Lot	Address	Current Owner	Parcel Date	Dwelling Date	Notes			
15733	709140001100	87771 Youngs River Rd	Anthony	4/18/1996	1920	Parcel 3 of Partiton Plat 1996-008 but parent parcel included dwelling.			
15734	709140001101	N/A	L&C TRS LLC	7/15/1957					
15726	709140000600	87599 Youngs River Rd	Homblac	3/12/1946	1920	Dwelling is outside of template			
15731	709140001000	87532 Youngs River Rd	Underhill	3/14/1952	1951	Dwelling is outside of template			
60182	709140000700	37102 Jurgensen Ln	Raichl	2/24/1948	Date TBD				
15755	709150000800	37016 Jurgensen Ln	Nelkes	9/18/1964		Ag bidg 1975			
57354	709150000703			Date TBD		Access parcel to 37016 Jurgensen?			
15753	709150000702		E/V Widgeon Inc.	Date TBD		Meres & Bounds strip			
55628	709150000600	89317 Youngs River Rd	Waila	8/6/1957	1958	Dwelling is outside of template			
15752	709150000700	36999-36997 Jurgensen Ln	Tolonen	3/7/1951	1941				
50419	709140000403	87555 Youngs River Rd	Barnett	4/18/1962	2011	2011 dwelling is a replacement, but dwelling is outside template.			
15721	709140000402	N/A	L&C TRS LLC	7/15/1957					
51204	709140000400	87434 Youngs River Rd	Ramsdell	3/7/1967	1984	Parcel described as exception in 1967. 1998 dwelling is a replacement for MH installed in 1984 per septic record.			
15724	709140000404	87334 Youngs River Rd	Horning	3/7/1967	1981	Dwelling is on same side of the road as subject parcel.			
57273	709140000200	89586 Hwy 202	Wildlife Center	9/30/1975		Septic records show orig. system in 1984 for MH that was to be removed in 2007 when the Center enlarged the system.			
Color Code of Parcel & Dwelling Status	Parcel Count	Dwelling Count							
Meets Template Test requirements	12	3							
TBD if it meets requirements	3	2							
Does not meet Template Test req 's		4							
N/A		6							

EXHIBIT 2

Public Notice



Clatsop County

Community Development – Planning

800 Exchange St., Suite 100
Astoria, OR 97103
(503) 325-8611 phone
(503) 338-3606 fax
www.co.clatsop.or.us

PUBLIC NOTICE

CONDITIONAL USE PERMIT APPLICATION

#186-22-000253-PLNG

COMMENT PERIOD ENDS: 4:00 p.m. Tuesday, September 6, 2022
SEND COMMENTS TO: Community Development Department
800 Exchange Street, Suite 100
Astoria, Oregon 97103
CONTACT PERSON: Ian Sisson, Senior Planner

You are receiving this notice because you own property within 750 feet of the request listed below, or you are considered to be an affected state or federal agency, local government, or special district.

NOTICE IS HEREBY GIVEN that Clatsop County's Community Development Department, Land Use Planning Division has received the application described in this letter. Pursuant to *Section 2.1020* of the Clatsop County Land and Water Development and Use Code (LAWDUC), the Department Director has the authority to approve the request in accordance with the requirements as depicted in the County Ordinance *20-03*.

Angela Beck has submitted an application to construct a single-family dwelling on property she owns in unincorporated Clatsop County on the east side of Youngs River Road, approximately six miles south of Astoria. The subject property is identified as Township 7N, Range 09W, Section 14, Tax Lot 604, an approximately 4.6-acre parcel in the Agriculture-Forestry Zone (AF) and Geologic Hazards Overlay District (GHO). A single-family dwelling can be permitted in the AF Zone under a Type II conditional use procedure pursuant to LAWDUC Section 4.3400, subject to applicable review criteria and development standards (listed below). **See reverse side for vicinity map.**

All interested persons are invited to submit written comments relevant to the proposed development and applicable standards to the Clatsop County Community Development Department (address above). Written comments may also be sent via FAX to [503-338-3606](tel:5033383606), or email to comdev@co.clatsop.or.us. Written comments must be received in this office no later than **4:00 p.m. on Tuesday, September 6, 2022**, in order to be considered in the review. Planning representative for the application is Ian Sisson, Senior Planner, (503) 325-8611 or isisson@co.clatsop.or.us

If written objections are received regarding how the request fails to meet the standards of the zone or other ordinance requirements on or before the date above, the Community Development Director may place the request on the next appropriate Planning Commission agenda for review. Failure to raise an issue in person or by letter precludes appeal; and in raising an issue, the relevant Zoning Ordinance or Comprehensive Plan criterion to which the issue is directed must be specified. The following criteria apply to the request:

Land and Water Development and Use Code 20-03 (LAWDUC): 1.0500 Definitions; 2.1020 Type II procedure; 2.2040 Mailed Notice for a Type II Procedure; 2.2050 Procedure for Mailed Notice; 2.4000 Conditional Development and Use; 2.9400 Site Plan Review; 3.9180 Forest Zone Standards; 3.9550 Vehicle Access Control and Circulation; Section 3.9800 Transportation Improvements and Road Standard Specifications; 4.3400 Agriculture-Forestry Zone (AF); 5.3000 Geologic Hazards Overlay District (GHO)

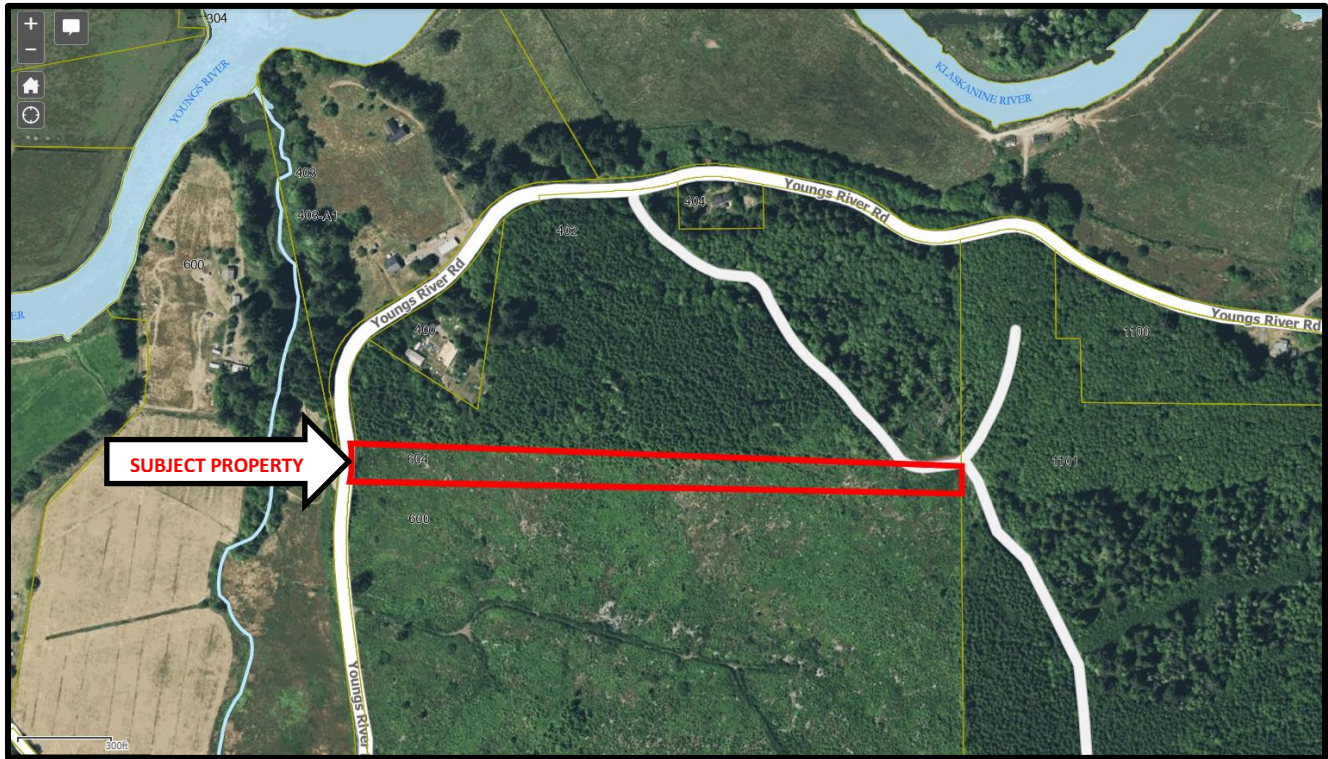
Notice to Mortgagee, Lien Holder, Vendor or Seller: ORS Chapter 215 requires that if you receive this notice it must promptly be forwarded to the purchaser.

Mailing Date: August 24, 2022

Clatsop County Comprehensive Plan: Goal 1 Citizen Involvement; Goal 2 Land Use Planning; Goal 4 Forest Lands; Goal 6 Air, Water, and Land Quality; Goal 7 Areas Subject to Natural Disasters and Hazards; Goal 11 Public Facilities and Services; *Lewis & Clark, Olney-Wallooskee Community Plan*

All documents listed above are available for review at the Clatsop County Community Development Department office, 800 Exchange Street, Suite 100, Astoria, Oregon, and on-line at the county's website, www.co.clatsop.or.us.

SUBJECT PROPERTY:



2018 Aerial Photo

A copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at the Community Development Department Office during normal business hours (M-F, 7:30-4:00) at no cost and copies will be provided at reasonable cost.

Electronic copies can also be viewed at <https://aca-oregon.accela.com/oregon/>

From: Annette Brodigan
Sent: Thursday, August 25, 2022 8:46 AM
To: Clancie Adams; Gail Henrikson; Julia Decker; Ian Sisson; David Cook; Jason Pollack; 'angelabeck24@gmail.com'; Lucas Marshall
Subject: RE: Public Notice - Beck Template Test

Clatsop County Onsite Septic does not have a site evaluation on file for this vacant lot. If this application is approved, the applicant will be required to apply for the site evaluation report for septic approval from our department.

Annette Brodigan

Clatsop County Public Health
503-338-3681

*Office hours Monday through Thursday 7:30 – noon and 1 – 4:30
Friday 7:30 – 11:30*

From: Clancie Adams <cadams@co.clatsop.or.us>
Sent: Wednesday, August 24, 2022 8:30 AM
To: Gail Henrikson <ghenrikson@co.clatsop.or.us>; Julia Decker <JDecker@co.clatsop.or.us>; Ian Sisson <isisson@co.clatsop.or.us>; David Cook <dcook@co.clatsop.or.us>; Jason Pollack <jpollack@co.clatsop.or.us>; Lisa Moore <lmoore@co.clatsop.or.us>; 'angelabeck24@gmail.com' <angelabeck24@gmail.com>; David Kloss <dkloss@co.clatsop.or.us>; 'brett.estes@dlcd.oregon.gov' <brett.estes@dlcd.oregon.gov>; Hilary Foote (hilary.foote@state.or.us) <hilary.foote@state.or.us>; Lucas Marshall <lmarshall@co.clatsop.or.us>; Annette Brodigan <ABrodigan@co.clatsop.or.us>; 'olneyfire.fc@gmail.com' <olneyfire.fc@gmail.com>; BANGS Cullen * ODF (Cullen.Bangs@oregon.gov) <Cullen.Bangs@oregon.gov>; 'David Nuzum (david.j.nuzum@state.or.us)' <david.j.nuzum@state.or.us>; 'HENDRICKS Nikki M * WRD' <Nikki.M.Hendricks@oregon.gov>; Ted Mclean <TMclean@co.clatsop.or.us>; Terry Hendryx <THendryx@co.clatsop.or.us>; Dean Keranen <dkeranen@co.clatsop.or.us>
Subject: Public Notice - Beck Template Test

Please see attached.

Clancie Jo Adams | Permit Technician
Clatsop County Community Development
Land Use Planning Division
800 Exchange Street, Suite 100
Astoria, OR 97103
Phone: 503.325.8611 | Fax: 503.338.3666

This message has been prepared on resources owned by Clatsop County, Oregon. It is subject to the Internet and Online Services Use Policy and Procedures of Clatsop County.

EXHIBIT 3

Lot of Record Determination #21-000716



Clatsop County

Community Development – Planning

800 Exchange St., Suite 100
Astoria, OR 97103
(503) 325-8611 phone
(503) 338-3606 fax
www.co.clatsop.or.us

STAFF REPORT - **AMENDED**

Application #21-000716

AMENDED STAFF REPORT DATE: January 11, 2022

REQUEST: Lot of Record Determination

OWNER/APPLICANT: Angela Beck
46692 Old 77 Vesper
Birkenfeld, OR 97016

PROPERTY DESCRIPTION: T7N, R09W, Sec 14, TL00600 (69.28 acres) EFU and AF, including Tract 3, also formerly known, as T7N, R09W, Sec. 14, TL 00406 4.54 acres, within the AF Zone

ZONING DESIGNATION: EFU (Exclusive Farm Use – 80 acre minimum) 28 acres m/l
AF (Agriculture Forest – 80 acre minimum) 46 acres m/l
Flood Hazard Overlay – Zone X and Zone D-unstudied low risk
Geologic Hazard Overlay
National Wetland Inventory Overlay

EXISTING STRUCTURES: Clatsop County Assessment records indicate a 1920-built single family residence and numerous outbuildings located on the EFU portion of the property.

COUNTY STAFF REVIEWER: Julia Decker, Planning Manager

EXHIBITS: Exhibit 1: Quitclaim Deed: Heirs of the Estate of Bessie Stratton-Snyder
Exhibit 2: BLM Land Patent Details: Hans Anderson DLC
Exhibit 3: Affidavit of Heirship: Heirs of Bessie M. (Stratton) Snyder
Exhibit 4: Assessor and Clerk records

The following determination by Clatsop County Community Development is based in part on the following: Information provided by the applicant; Clatsop County deed and land use contract records; and the Clatsop County Land and Water Development and Use Code 20-03 (LAWDUC).

LOT OF RECORD BACKGROUND:

There are two steps to a lot of record determination. The first is to determine whether the subject property was created legally. The property must meet the definition of a "lot of record" under section 1.0500, LAWDUC 20-03:

LOT OF RECORD - Any lot or parcel lawfully created by a subdivision or partition plat of record in the County Clerk's Office, or lawfully created by deed or land sales contract prior to land use partitioning requirements, and of record in the Deed Records of Clatsop County.

LOT OF RECORD STATUS:

Staff Finding:

TL 00600 was created by the recording of a Warranty Deed with the Clatsop County Clerk on March 12, 1946 (Clatsop County Book of Deed Records, Book 183, Pages 679-680), conveying the property from Amelia Larson, a widow, to Toivo Mustonen. **The subject TL 00600 meets the county's definition of "Lot of Record" (LAWDUC 20-03, Section 1.0500).**

However, TL 00600 now includes approximately 4.54 acres that was quitclaimed in 2012 by the heirs of the Estate of Bessie Stratton-Snyder to WT Timber LLC, Instrument 201204012 (Exhibit 1), on May 17, 2012, which is now identified in the metes and bounds description as Tract 3 of TL 00600. Upon quitclaiming in 2012, Tract 3 was known briefly as T7N, R09W, Sec. 14, TL 00406 before being redesignated as Tract 3 and included in TL 00600's property description.

To identify the origin of Tract 3, is necessary to also review T7N, R09 W, Section 17, TL 00402 (TL 402), immediately north of TL 00600. Both TL 00600 and TL 00402 were created as part of the original Hans Anderson Donation Land Claim, BLM Serial No. OROCAA 029021, Document 4544, September 27, 1850 (Exhibit 2, patent image not available). TL 00402 was created by Warranty Deed, which conveyed the property from Ernest T. Stratton and Arlene Stratton, husband and wife, to Crown Zellerbach Corporation, a Nevada corporation, recorded on July 15, 1957, (Clatsop County Book of Deed Records, Book 240, Pages 579-583). **The subject TL 00402 meets the county's definition of "Lot of Record" (LAWDUC 20-03, Section 1.0500).**

Tract 3 was created, possibly by scrivener error, when TL 00402 was conveyed in 1957, when it was not included in a metes and bounds description at the time of recording. Between 1957 and 2012, land now referred to as Tract 3, was not included in the property descriptions of either TL 00402 or TL 00600. During that interim period, the land now referred to as Tract 3 was not assigned a map and tax lot number and may have appeared as a gap.

Subsequent survey work resulted in identification of the tract; to clear the title, the heirs of Bessie Stratton-Snyder recorded an affidavit of heirship with the Clatsop County Clerk, Instrument 201204011 (Exhibit 3), May 17, 2012, "to induce any Title Company to issue its policies if title insurance on any real property passing to the surviving heirs of Bessie M. Snyder in reliance upon the representations set forth above."

The minimum lot size for the AF Zone was not established when TL 00600, TL 00402 and Tract 3 were created.

Given that transferring the property known as Tract 3 into the same ownership with TL 00600 required quitclaiming it in 2012, it seems reasonable to assume Tract 3 was considered to be in different ownership than both TL 00600 and TL 00402 from the time it was created in 1957 by deed when TL 00402 was created until Tract 3 was quitclaimed in 2012 by the heirs of the Estate of Bessie Stratton-Snyder, the sister of Ernest T. Snyder.

The deeds, particularly TL 00402, that left Tract 3 out of both TL 00402 and TL 00600 can be considered to have created Tract 3.

Staff finds Tract 3 was not described in the metes and bounds descriptions of TL 00600 and TL 00402 between 1946 and 1957, respectively, and 2012, creating by deed a separate parcel. The subject Tract 3 meets the county's definition of "Lot of Record" (LAWDUC 20-03, Section 1.0500).

PARCEL BACKGROUND:

The second step is to determine if the property, is a "parcel", as defined in LAWDUC 1.0500 Definitions; and if it qualifies for a general exception to lot size as defined in 1.1020 General Exception to Lot Size Standards:

SECTION 1.0500 Land & Water Development and Use Code (LAWDUC) Definitions:

Parcel:

(1) Includes a unit of land created:

By partitioning of land as defined in ORS 92.010:

(A) In compliance with all applicable planning, zoning and partitioning ordinances and regulations; or

(B) By deed or land sales contract, if there were no applicable planning, zoning or partitioning ordinances or regulations.

(2) Does not include a unit of land created solely to establish a separate tax account.

1.1020. GENERAL EXCEPTION TO LOT SIZE STANDARDS:

(2) In all other areas:

(A) If, at the time the applicable zone or an amendment to the applicable lot size or dimension standards was adopted (March 28, 1997), a lot of record has an area or dimension that does not meet the requirements of the zone, and the lot of record was not in the same ownership with a contiguous lot or parcel which does not meet the minimum area or dimension requirements, the lot of record may be developed as allowed by the applicable zone and county development standards.

PARCEL STATUS:

Staff Finding: 1.1020 (2)(A) applies.

The subject T7N, R09, SEC14 TL00600 is split-zoned EFU, with a minimum lot size of 80 acres, and AF, with a minimum lot size of 80 acres. Tract 3, which was created by deed in 1957 (see Lot of Record Status, above) is located within the AF Zone of TL 00600. The parcel is substandard in size for the zoning designations, totaling 46 acres m/l in the AF Zone and 28.28 acres m/l in the EFU Zone. Clatsop County records indicate Toivo and Shirley P. Mustonen owned the TL 00600, but not Tract 3, on March 28, 1997, the effective date of Clatsop County LWDUO, which established the current minimum lot size of 80 acres for both the EFU and AF Zones. Tract 3, on March 28, 1997, has been determined to have been in the ownership of the Heirs and Assigns of Ernest T. Stratton and Arlene Stratton, to be later quitclaimed by the heirs of the Estate of Bessie Stratton-Snyder, the sister of Ernest T. Stratton (Exhibit 3).

TL00600 was not owned in common with any contiguous substandard parcels and is considered "one land use unit". LAWDUC §1.0500.

Tract 3 was not owned in common with any contiguous substandard parcels and is considered "one land use unit". LAWDUC §1.0500.

CONCLUSION:

The subject T7N, R09W, SEC14, TL00600 and Tract 3 are both substandard in size for both the AF and EFU zones, the properties are not part of a tract and were not held in common ownership with any other contiguous, substandard parcels on March 28, 1997. Although the parcels do not meet the minimum lot size for either the AF or the EFU zoned portions, they each are considered one "land use parcel". Any development of a land use parcel must adhere to all ordinances and standards except for minimum lot size and dimensions.

Youngs River Road runs through TL 00600 with the total AF zoned portion and Tract 3 located on the east side of the road and the total EFU zoned portion located on the west side of the road. Youngs River Road was not created by deed and, therefore, does not separate the zones into separate parcels. TL000600, minus Tract 3, is one parcel for land use purposes, and Tract 3, although currently within the metes and bounds of TL 00600, is one parcel for land use purposes.

APPEAL: This determination is a Type I procedure, as defined in Section 2.1010. Pursuant to LAWDUC 20-03, Section 2.2190, Request for Review/Appeal, this determination may be appealed within twelve (12) days of this decision. The deadline for filing an appeal is 4:00 PM on January 24, 2022, (will require applicant to grant extension of 150-day rule).



Clatsop County
Community Development – Planning

800 Exchange St., Suite 100
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(503) 325-8611 phone
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www.co.clatsop.or.us

NOTICE OF DECISION

Conditional Use Permit #186-23-000089-PLNG

DATE: July 19, 2023

REQUEST: Conditional Use Permit (CUP)- Type II application for a single-family dwelling subject to the "template test" per LAWDUC 4.3440(14) and 3.9180.

APPLICANT/OWNER: Jason Palmberg
PO BOX 173, Astoria, Oregon 97103

PROPERTY DESCRIPTION: T7N, R09W, Sec. 18, Tax Lot 1400 (±109.14-acres)

ACTION: **DENIAL – The template as checked by Clatsop County GIS does not include three dwellings that existed on January 1, 1993, as outlined in LAWDUC Section 3.9190 (3)(C).**

Mr. Palmberg,

The Community Development Department has completed review of the request cited above. This decision includes findings and conditions of approval, attached.

If you, or a party with standing, wish to appeal this decision, you may do so, up to the date and time appearing at the bottom of this letter. The appeal must comply with Section 2.2190 of the Clatsop County Land and Water Development and Use Code #20-03 (procedure for an appeal). This department will not issue development permits for any activities or structures until the 12-day appeal period has expired.

If you have any questions regarding this decision, appeal procedures or any of the conditions of approval, please contact me at (503) 325-8611.

Sincerely,

A handwritten signature in blue ink that reads "Gail Henrikson".

Gail Henrikson, Director
Community Development Department

Attachments: Conditions of Approval
Staff Report
Exhibits

DEADLINE TO APPEAL: 4:00 P.M. Monday, July 31, 2023



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CONDITIONS OF APPROVAL

Conditional Use Permit #186-23-000089-PLNG

IF THE FINAL DECISION-MAKER FINDS THAT THE REQUEST IS ABLE TO BE APPROVED, STAFF RECOMMENDS THE FOLLOWING CONDITIONS OF APPROVAL AND REGULATIONS:

1. Prior to construction, the applicant shall obtain a Type I Development Permit from the Planning Division and all appropriate building permits from the Building Codes Division. The Development Permit application shall include the following items:
 - A. A final site plan per LAWDUC Section 4.3400 (AF Zone development standards), Section 3.9250 (Fire Protection Standards for Dwellings and Structures), and Section 3.9540 (Access Control Standards);
 - a. The applicant shall show the location of two (2) parking spaces for the single-family dwelling per Section 3.0060 (Minimum Off-Street Parking Space Requirements), and these parking spaces shall not be within the fire truck turn-around as reviewed in Section 3.9540 (Access Control Standards);
 - B. An outdoor lighting plan commensurate with Ordinance 20-02;
 - C. Grading, Drainage and Erosion Control Plan Review application for the proposed driveway access and house.
 - D. Documentation of the easement access to Lewis & Clark Mainline for access to Lewis and Clark Road and the driveway shall be a minimum width of 10 feet and maximum width of 24 feet.;
 - E. A completed Agency Review & Approval Form;
 - F. An erosion control plan commensurate with Section 3.2000 Erosion Control Development Standards;
 - G. Verification of an adequate year-round supply of potable water in accordance with Section 3.0040 and Section 3.9240(3).
2. The landowner for the parcel shall sign and record in the deed records for the County a Waiver of Remonstrance binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. Community Development shall be provided with a copy of the recorded document prior to the issuance of the development permit for the dwelling.
3. A sufficient number of trees shall be planted on the property in accordance with Oregon Department of Forestry (ODF) stocking requirements. The applicant/owner shall provide the Land Use Planning Division documentation that the property satisfies the ODF requirements.



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4. All development shall comply with the following fire protection standards:
 - A. The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area on land surrounding the structures that is owned or controlled by the owner in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991, published by the Oregon Department of Forestry; and shall also demonstrate compliance with Table 3.1.
 - B. All structures shall have a fire-retardant roof.
 - C. Structures shall not be sited on a slope of greater than 40 percent.
 - D. If the structure has a chimney or chimneys, each chimney shall have a spark arrester.

OTHER REGULATIONS ALSO APPLY, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

1. Development shall comply with all applicable state, federal and local laws and regulations. Copies of all required state and/or federal permits shall be provided to the Planning Division.
2. Authorization of a conditional use dwelling in the AF zone shall be void after four years unless substantial construction or action pursuant thereto has taken place as defined in Section 1.0500. However, the County may, at the discretion of the Community Development Director, extend authorization for an additional two years upon request, provided such request is submitted in writing at least 10 days and not more than 30 days prior to expiration of the permit. The county may approve no more than five additional one-year extensions of a permit if:
 1. The applicant makes a written request for the additional extension period prior to the expiration of an extension;
 2. The applicable residential development statute has not been amended following the approval of the permit; and
 3. An applicable rule or land use regulation has not been amended following the issuance of the permit, unless allowed by the county, which may require that the applicant comply with the amended rule or land use regulation.
4. An extension of a permit under subsection (2) of this section is not a land use decision as defined in ORS 197.015. [ORD. 23-02]